

**TRANSPORT AND WORKS ACT 1992 TRANSPORT AND WORKS (INQUIRIES PROCEDURE)
RULES 2004 PROPOSED NETWORK RAIL (TACKLEY LEVEL CROSSING) ORDER**

CLOSING SUBMISSIONS ON BEHALF OF NETWORK RAIL INFRASTRUCTURE LIMITED

Introduction

1. These submissions are made on behalf of Network Rail Infrastructure Limited ('NR'), as promoting authority, in respect of the draft/Network Rail (Tackley Level Crossing) Order ('**Order**') proposed to be made pursuant to the Transport and Works Act 1992 ('**1992 Act**'). These submissions further contextualise the Order, the nature and significance of the underlying proposal ('**Scheme**'), its implications, and ongoing efforts of NR in relation to objections and the (few) affected landowners.
2. The Scheme proposes:
 - a) permanent closure of the Tackley Level Crossing ('**TLC**') ('formalising' closure under the temporary traffic regulation order ('**TTRO**') of April 2020); the permanent stopping-up of part of an existing public bridleway ('**EB**') (379/25/10)¹ at the section approximately comprised within the TLC (so as to create a cul-de-sac for equestrian use at this point, whilst maintaining a direct pedestrian and dismounted cyclist link to a new footbridge ('**FB**')). Prior to temporary closure, this had allowed a (cross-railway) public bridleway for equestrians, to Nethercote Road² and Tackley Village;
 - b) the creation and designation of a new bridleway ('**NB**'), with fencing, to the west of the EB³, to run adjacent to the railway and connect with the southern

¹ Shown in green solid line on Land and Rights of Way Plans [APP07.2]

² Between points 'Z1' and 'Z2'

³ Shown in pink dashed line on Land and Rights of Way Plans [APP07.1]

bridleway. In complementing east-west connectivity (which includes Tackley village) this will provide for a true alternative right of way for the purposes of s.5(6) of the 1992 Act, which is adequately suitable and convenient. The permanent closure of the TLC will be mitigated for non-railway users by virtue of the NB;

- c) re-designation (to bridleway status) of part of existing footpath (379/16/20) to the south of Tackley Village, so enabling equestrian use in conjunction with pedestrian and cyclist use;
 - a) the creation of new highway and temporary possession of land, in connection with works, uses and operations incidental or ancillary to the Scheme. The land to be subject to the permanent rights of the New Bridleway (Plots 5, 6, 8 and 10) is identified⁴. The land to be acquired for temporary possession (Plots 1, 3a, 3b, 7, 9, 11 and 12) is identified⁵; and
 - b) temporary stopping-up of rights of way to allow for necessary works, uses and operations incidental or ancillary to the Scheme.
3. Separately to the NB, the permanent closure of the TLC will be mitigated for railway users by the provision of a footbridge (with lifts) ('FB'). This will allow for the continued functionality and inclusivity for all pedestrians and (dismounted) cyclists using Tackley station, and permit these station users to access, and transfer between, platforms, and to continue to connect between the Existing Bridleway and Tackley village.
4. Notwithstanding the FB will aptly secure this functionality, unremarkably, the FB itself forms no part of the Order. The FB has sensibly featured in the Inquiry as a basic contextual aid, for understanding the interface and functionality of the components of

⁴ INQ-04.1: For BOR Plots of Permanent Acquisition, in respect of the New Bridleway: Plots 6, 8 and 10 [Andrew Charles Peake] and Plot 5 [Anthony Cocker & Janina Pulaski]

⁵ INQ-04.2: For BOR Plots of Temporary Possession, in respect of Plots 1, 3a, 3b, 7, 9, 11 and 12 [Andrew Charles Peake]; and Plot 4 [Anthony Cocker & Janina Pulaski]

the scheme which are provided for in the Order, and also the exercise of powers sought. Although of the FB is of practical benefit to all, it is not part of NR's case that the permissive use of the FB by non-station users provides any legal alternative for the right of way to be closed over TLC. This context however denotes no legal significance, for the purposes of the Order, itself. Hence, as regards the scope and terms of the Order, this distinction is an absolute one⁶. Similarly, it is an entirely standard arrangement for such footbridge development to be alternatively secured by, and be constructed pursuant to, permitted development rights under Part 18 of Schedule 2 to The Town & Country Planning (General Permitted Development) (England) Order 2015 ('GPDO'). As such, the works to be authorised under Part 18 are neither included in, nor referenced by, the Order. Similarly, this is entirely unremarkable.

5. Accordingly⁷, there is no necessity – or, it is submitted, desirability – for the Order to incorporate, anywhere, express reference to the FB. This includes the Explanatory Memorandum. Indeed, it is respectfully submitted that such inclusion would appear incongruous to the parameters of the Order, as the legal instrument for the Scheme in so far as the Order does not authorise, or legislate for the FB. Given those certain parameters, the inclusion of any referencing (even with the well-intended aim of contextualising) would risk causing confusion, at a minimum. Whereas, silence on the FB can cause no confusion for the Order and could not amount to any omission, as such, again, by reference to its certain parameters vis-à-vis the Scheme. The Scheme, as defined, remains provided for, completely.
6. Similarly, the planning merits of the FB itself (and in respect of the construction of the NB) are irrelevant for the purposes of considering the Order. NB will be undertaken pursuant to Part 18 GPDO. NR will also rely as necessary on Part 4 GPDO in relation to temporary construction works.

⁶ Accordingly, there is no requirement for the Order to incorporate express reference to the FB, whether within the body of the Order or within the Explanatory Memorandum. Indeed, it is respectfully submitted that it would appear incongruous to the parameters of the Order, for it to be included.

⁷ In considered reply to observations invited by the Inspector regarding whether the part of the Order might incorporate express referencing to the FB.

Matter 1: ‘Aims and Objectives of, and the Need for, the Order’

7. By very broad introductory, the fundamental aims, objectives and needs for the Scheme are extensively demonstrated in NR’s evidence:
 - a) the permanent promotion of level crossing safety in respect of the TLC;
 - b) the enhancement of operational efficiency and rail network resilience;
 - c) the facilitation of future capacity improvements for the railway, compatibly with proposed, future strategic delivery, including consistently with NR’s Oxfordshire Connect Programme (**‘OCP’**);
 - d) the enhancement of public accessibility, through the introduction of generally improved (and step-free) access, for almost all user groups (i.e. excluding only equestrians) encompassing those less mobile;
 - e) Other conspicuous benefits, and net improvements, such as environmental benefits.
8. More particularly, as to (a), presently, the TLC is closed to use, under the temporary traffic regulation order (**‘TTRO’**) made in April 2020. There is a comprehensively-evidenced imperative for this closure to now be formalised, through the Order, on grounds of safety risk. TLC has been expertly assessed as being demonstrably unsafe for users. It is a ‘non-compliant’ crossing in terms of sighting distance deficiency. Separately, the station passenger crossing (**‘SPC’**) form of the TLC – in having provided level access to the station’s eastern platform from Tackley village, and between platforms 1 and 2 – has also meant an inviting (and indeed, borne out) hazard for station users to cross, irrespective of the train hazard. Separately again, TLC discloses an indicative, very concerning history of ‘misuse’ which has tragically coincided with a fatality event, further to a high catalogue of near-miss incidents at and around these higher speed, and well-trafficked lines.

9. Against this serious and urgent background, a robust, expert safety assessment and mitigation optioneering process has been undertaken. In that the overall risk profile for TLC cannot reasonably be mitigated to SFAIRP, as to adequately allow for future use, the urgent and critical for its temporary closure in April 2020 is reinforced. So, today, that critical necessity is demonstrated to be no less. The Scheme provides for a much-needed, permanent regularisation of this situation.
10. More particularly, as to (b), the permanent closure of TLC will contribute significantly to multiple, significant enhancements in operational efficiency and network resilience terms. Positive impacts will span widely and include the completion of an integral phase to the future unlocking of increased freight capacity; passenger-experience enhancements, and increased financial sustainability through captured costs-efficiencies. More specifically, these will include: (i) a contribution to unlocking additional freight capacity; (ii) increased passenger train capacity; (iii) an increase to linespeed; (iv) the creation of uninterrupted train performance, through the TLC; (v) improved journey times and journey experience; (vi) reduced exposure to financial liabilities; and (vii) net maintenance savings.
11. More particularly, as to (c), the Scheme is designed as a highly significant, strategic component of NR's broader OCP for the delivery of strategic railway enhancement. This enhancement includes the increase of additional rail freight capacity in keeping with Department for Transport ('DfT') and other stakeholder aspirations, and overarching rail freight strategy (including under the Oxfordshire Rail Corridor Study [2021]⁸ ('ORCS') (interchangeably referenced as the OCP) for achieving freight growth along the Oxford corridor (being a key freight route from the port of Southampton to the Midlands, and the north) and strategic freight corridor, generally; the prospect of additional non-stopping passenger train capacity, which – albeit ultimately dependent upon the subsequent closure of two other level crossings in Oxfordshire (namely Sandy Lane and Yarnton Lane) – must first depend upon the closure of the TLC. Without this first stage of enablement, it is certain that these benefits cannot be realised subsequently. In this

⁸ APP25

way, closure of TLC is necessary, and the benefits which will arise at various future stages, essentially remain derivative of that closure.

12. Furthermore, other conspicuous benefits and net gain, of real importance, will be delivered by virtue of the Scheme, and all serving the public interest. These will include, what will be, an additional section of new local bridleway – along the NB – for equestrians, pedestrians and cyclists, and various asset-specific cost efficiencies through maintenance and operational savings, in addition to environmental benefits.
13. In this case, the aims, needs and objectives that will ultimately be served by the Order are plainly and very significantly supplementing of one another. Yet, even if this were a case (which it is not) in which NR could point only to the permanent promotion of level crossing safety for TLC, it would be submitted that this alone would properly stand as a justifiable aim, objective and need, for the purposes of Order-making and for meeting the relevant statutory tests.

Matter 1: ‘Compliance with statutory procedural requirements

14. In relation to the application for the proposed Order, NR has complied with all procedural requirements; for example, as to serving copies of documents and the giving of notices, set out in the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (as amended), as has been set out in an affidavit sworn by Mr Francis Tyrrell of Addleshaw Goddard LLP on 19 January 2024, and which has been provided to the Department, and also copied to the Inspector. Further, notices of the Inquiry have been given in accordance with the Transport and Works (Inquiries Procedure) Rules 2004, and copies have been provided.

Matter 1: ‘Adequacy of consultation conducted’

15. The consultation conducted has, on any case, been comprehensive. A high level overview of the consultation is outlined in the (updated) Consultation Report dated 17.6.24⁹. This serves as a detailed framework, which has been further amplified in evidence, including across multiple NR witnesses, including by those who attended in-

⁹ [APP05.1]

person, consultation events¹⁰. Mr Audley has amply detailed discussions and engagement, in conjunction with others, at various events, with principal stakeholders. The consultation has therefore far exceeded adequacy.

16. Consultation and engagement has also clearly been prosecuted in an open, informative and complete manner, which amply demonstrates that – contrary to a small number of unparticularised ‘complaints’ (if these be complaints at all) or more specific but stretched and unfounded complaints, now addressed – NR had engaged and (far) more than adequately consulted on alternative ‘options’, including alternative bridleway route ‘options’, with Oxfordshire County Council (**'OCC'**) (as highways authority), the British Horse Society (**'BHS'**) (as a key representative of the local riding community) and Tackley Parish Council (**'TPC'**) – and, moreover, that the community at large was kept updated and engaged through the evolution of the project. The proof of Mr Audley¹¹ has majored on the engagement and consultation processes undertaken with key stakeholders, principally in conjunction with Mr Willson, and Mrs Holbrook.
17. The (unparticularised) assertion of Bicester and Warden Hill Pony Club (**"BWPC"**) [OBJ-25 and OBJ-52] that there was no attempt to engage with the “riding community” is an outlier and impossible to understand. It has no basis. NR purposely consulted regularly with BHS, because it was identifiable, representative and resourced amongst equestrians, in addition to the local community, which was understood to include some equestrians who identified themselves as such. This was for completeness, in case any were non-BHS members and had not heard of proposals, via the BHS. The BWPC assertion, unparticularised, fails simply to engage with the clear evidence of comprehensive and continued engagement. That this same author – understood to be Secretary of BWPC – additionally makes another untenable assertion regarding a single piece of NR literature (a NR leaflet) having ‘misled’ (unidentified persons – noting, not one of whom has come forward to suggest that they were misled) is another indicator of unfair criticism.

¹⁰ Andy Willson (NR) and James Audley (NR)

¹¹ NR-W2-1

18. Principal stakeholders include OCC¹², as HA. Discussions with OCC have bridged the period of 6.8.18 – 21.3.24. As [APP05.1] demonstrates, regular meetings with Rights of Way Officers have occurred. Mr Audley Public Rights of Way officers. Mr Audley confirms that contact began in 2018, with regular subsequent consultation meetings being held monthly, since January 2023, in tandem with meetings with West Oxfordshire District Council. Upon NR having presented various bridleway proposals to wider stakeholders, all proposals had already been discussed with OCC, with comments incorporated into NR's onward consideration.
19. Principal stakeholders also include BHS¹³, TPC¹⁴, and local community members of Tackley. These discussions and engagement events have been multi-faceted, encompassing site visits in Tackley, email correspondence and telephone discussions, online meetings and open evenings, and consultation events held at Tackley village hall. These also include Tackley Estates (being the landowner, Mr Andrew Charles Peake) ('TE')¹⁵.
20. This intensive level of engagement also characterises how the sifting-out of 'options' was conducted, including the graduation from an underpass 'option' to the NB proposal. On 2 November 2021 it was confirmed to OCC that a subway option was not to be continued. On 9 November 2021 this decision was explained to BHS, with reasons. On 15 November 2021 this was discussed with TPC and a letter sent to TPC the following day, outlining reasons. The decision to pursue a footbridge option with use of the NB route (i.e. referenced by BHS as 'Route F'; 'lineside Route') was made in Spring 2022. NR notified interested parties soon thereafter: on 17 May 2022 – OCC and TE. The decision to discontinue the subway was made and communicated in November 2021, to TE. On 16 May 2021, Carter Jonas informed NR of TE's confirmed disinterest to selling land required to allow for subway construction¹⁶ and it had also become well-apparent to

¹² Proof, Audley [NR-W2-1], paras 4.1-4.2 (correspondence from 6.8.18 – 21.3.24).

¹³ Consultation with BHS from 28.8.18 – 4.10.23: Proof, Audley [NR-W2-1]: paras 4.15-4.18.

¹⁴ Consultation with TPC from 3.9.18 – 1.3.24: Proof, Audley [NR-W2-1]: paras 4.4-4.6.

¹⁵ Consultation with TE from 9.8.18 – 20.9.23: Proof, Audley [NR-W2-1]: paras 4.7-4.14.

¹⁶ Proof, Audley [NR-W2-1].

NR that a land purchase would prove unreasonably costly. INQ-06 (Note on date of NB selection and discontinuance of the subway) confirms the communication to OCC, BHS and TPC. The decision to pursue a footbridge option was made in Spring 2022. Soon thereafter, NR notified interested parties: on 17 May 2022 (OCC and TE).

Matter 1: 'Effects on Railway Operations'

Operational Efficiency and Network Resilience

21. The permanent closure of TLC will contribute very significantly to enhanced operational efficiency and network resilience. Individual positive impacts range widely, spanning the gradual unlocking of increased freight capacity, passenger-specific enhancements, and increased financial sustainability through costs-efficiencies.
22. Contribution to unlocking additional freight capacity: First, permanent closure of the TLC will serve an initial, enabling stage of a wider, integral process that will ultimately allow for the unlocking of greater freight capacity on the Oxford corridor. This increase in capacity discloses very considerable strategic importance, not least because this corridor forms part of the Strategic Freight Network ("**SFN**"). A strategically important aim underlying the OCP is to secure an increase in freight capacity.
23. The Oxford corridor is a key freight route, from the port of Southampton to the Midlands and the north. A rail freight growth target of at least 75% by 2050, to deliver both economic and environmental benefits, is headlined in HM Government policy. Future policy, promoting like targets, would also mean change to future demand forecasting, from current predicted levels. Upon formal closure of TLC, and upon close monitoring of freight demand through this section of rail corridor, NR will be able to forward-plan the financing of works required in conjunction with a future closure of associated Sandy Lane and Yarnton Lane level crossings, in order to unlock increased freight capacity on the Oxford corridor. The closure of the TLC, is an integral first stage, for this future unlocking.
24. The ORCS identifies that freight is forecast to increase predominantly across the SFN, between the Port of Southampton and the West Coast. Albeit the rate of growth in freight

demand has slowed (and so too, the timeframe within which the delivery of increased capacity, has extended) over recent years, largely in consequence of the Covid pandemic and UK economic downturn, it nonetheless remains of strategic importance that the capability for increased capacity on the Oxford corridor, be readied.

25. The OCP has identified necessary interventions for achieving increased freight capacity, including a series of improvements to signalling, stations and the railway itself to increase capacity and journey flexibility. The OCP specifies the need for regularised closure of TLC.
26. The remaining stages of this unlocking process, which are likely to encompass the closures of both Sandy Lane and Yarnton Lane level crossings, are likely to be brought forward across NR's next two financial control periods, upon the conclusion of their respective business cases. Their closure would align with an increase to required freight capacity and, correspondingly, to their respective risk profiles in conjunction with that increase in capacity. At present however, their risk profiles are not anticipated to increase to an unacceptable level, at the accelerated rate previously opined. Accordingly, these two closures – subsequent to the permanent closure of TLC – have recently been temporarily deferred until an increased need in freight capacity signposts otherwise. This however marks a pause only. There is no suggestion or evidenced reason to suppose that increased need in freight capacity, and with it, a definite spur for the onward stages of closure of Sandy Lane and Yarnton Lane, will not come about, and within a short forecasting timeframe.
27. Passenger train capacity: Further to paragraph 26, second, TLC and two associated level crossings, namely, Sandy Lane and Yarnton, are together constraining the frequency of passenger train capacity through this railway section.
28. Increase to linespeed: Third, permanent closure of TLC will allow for an immediate increase to linespeed through Tackley station, to 95mph, for non-stopping trains. This increase will be achievable without works being undertaken, and will not be dependent upon down-the-line closures. This will allow for faster journey times, and to major

conurbations. A further increase, to 100mph, is also achievable but will necessitate some minor works. Hence, permanent closure of TLC is likely to enable a future, material increase to linespeed – a further significant performance enhancement – for non-stopping, passenger services.

29. Uninterrupted train performance, through TLC: Fourth, upon a removal of safety-related incidents, current service performance will be improved, through the elimination (save for instances of line trespass) of potential conflict involving train and user. With the removal of this conflict, will arise a reduction in train delays and cancellations arising from safety related incidents at TLC. In local and wider network resilience terms also, the avoidance of line incident (or accident) will inevitably mean strategic, commercial and economic betterment, through the avoidance of adverse performance outcomes, impacting upon operational efficiency.
30. Journey times and journey experience: Fifth, reduced delays, increased passenger capacity and increased line speed, will together contribute to betterment in total journey time, and indeed, for overall journey experience.
31. Reduced exposure to financial liabilities: Sixth, the potential susceptibility for NR's liability to make 'Schedule 8' payments¹⁷ will be meaningfully reduced. Extensive network delays can be attributed to level crossing incidents, often causing knock-on delays to train services or their cancellation.
32. Maintenance: Seventh, the relative durability of the FB will mean comparatively less maintenance responsibility and cost, than for the TLC. Ongoing maintenance costs, together with removal and reinstatement costs in relation to the level crossing decking, as to allow for track maintenance, level crossing inspections and vegetation clearance works will notably exceed the maintenance costs for the FB.

¹⁷ Proof, Greenwood [NR-W8-1].

33. Environmental benefits: Eighth, environmental benefits include net carbon dioxide emission savings equivalent to an average (new) freight train removing c.76 lorries from road network.

Matter 2: ‘Main alternative options considered by NR and reasons for choosing preferred option’

Alternative Options

34. The framework for the optioneering undertaken is introduced by Table 3 (Options considered for the Scheme) of NR’s SoC [SOC-NR-1].
35. Underpass: Alternatively known as the subway route, NR had originally hoped to progress with this option, but ultimately, further and developed consideration showed this to be unviable because of significant increased cost; the considerable disruption to the local community and environment from the engineering/construction operations to incorporate the sloped approaches and for removing large volumes of earth and TE declining to release the additional land required, with attendant railway disruption¹⁸. That the disruption to local residents and TE would have proven very significant, and would have included c.7 months ongoing disruption to field use, has been confirmed¹⁹. The underpass was optioneered both for a location at the station (no equestrian provision) and a location further south. This approach had developed upon an original (c.2002) planning application and appeal under previous project ‘Cross Country Route Modernisation’. After being initially considered sub-optimal (in cost and construction disruption terms) it was reappraised in 2019 when footbridge (with lifts) and in-field bridleway diversion proposals received significant challenge. The pedestrian/cyclist/equestrian subway proposal south of the station was re-visited but was eventually considered unjustifiable due to high cost (c.£11m and detailed in Mrs Holbrook’s Proof²⁰) and severe engineering difficulties (including preventing flooding

¹⁸ Proof, Holbrook [NR-W1-1], para 8.3.

¹⁹ Andy Willson; including Proof of Andy Willson [NR-W5-1], para 5; INQ XX: Written Evaluation of Alternatives Proposed - paragraph 12.3 of Inspector’s pre-Inquiry inquiry meeting notes.

²⁰ [NR-W1-1]

and in part a non-compliant gradient) and considerable disruption to operation of the railway during construction. Moreover, the BHS itself acknowledges that the subway is unfeasible.

36. Bridge north of Tackley Station (Barwood bridge route): This option was shown to be unviable, in engineering and overall cost terms²¹. The distance for the proposed location from Tackley station would in fact necessitate the construction of two bridges – so significantly increasing costs – for, non-provision of the second footbridge would require station users (including cyclists) to use Nethercote Road to access one platform and at the other end of their journey to use the Barwood bridge.²² It was known also that part of the footpath route through the Barwood development was also planned to be steeper than is allowable in mobility terms, whereas the required ramped slope would have meant aesthetic dis-benefits, engineering difficulty and environmental harm. Ramp provision, by their length and vertical height would mean non-compliance, for being unsuited to disabled access. The option would also put horses close to trains on the east side of the railway.
37. Bridleway north from the east side of TLC, between railway and River Cherwell, to the bridleway bridge at SP 4834 2171 (also known as the Northern route): This was considered inappropriate due to the unsuitable and inconvenient length of the alternative bridleway route which would create a new bridleway running to the east of the railway running c.1.2km north to an existing bridge, then using the existing bridleway and public road network to create a circular route to the TLC's west gate; totalling approximately 3.2km²³; the pinch-point on the east side of the railway which would have posed a particular engineering challenge to achieve a full width bridleway whilst providing required embankment slope gradients. Horses would also have been put close to trains on the east side of the railway. The unsuitability for station users

²¹ Proof, Holbrook [NR-W1-1] para 8.3; INQ 22: Written Evaluation of Alternatives Proposed - paragraph 12.3 of Inspector's pre-Inquiry inquiry meeting notes.

²² Proof, Willson, para 5 [NR-W5-1]

²³ Proof, Aston, para 7 [NR-W7-1]

would also have required a separate bridge or underpass, which would have proven prohibitively expensive²⁴. Significant challenges in route clearance and flood risk presented.

38. Bridleway west of the railway on current 'permissive route' (also known as the In-Field route / Route D): Originally the preferred solution (in conjunction, subsequently, with a footbridge, with lifts), this was agreeable to most stakeholders and was taken forward to 'Approval in Principle' design (signed off in 2018), but TE withdrew support, and insisted on a conditional package to be met by NR, including the stopping up of the EB, in full, which was objectionable for its adverse impacts on the local community. Further, to the south side of the field, the proposed route had been designed close to the fence line (to limit the severing of the main crop area), causing concern to the householder at the south end of the field, who did not wish for the route to be tight to their garden fence²⁵.
39. Early in discussions therefore, TE were rejecting this option, unless NR complied with TE's 'conditional' requirements. TE had also pointed to a greater impact it stated would arise from the 'splitting' of its field, making it considerably more challenging to farm, if not also, to access. The conditional requirements included full closure of the existing bridleway and the carrying out of extensive works to the Old Whitehill underpass, both of which were objectionable to NR (as an arms-length public body) and objected to.
40. As Mr Billingsley confirmed, albeit therefore the cost and difficulty of the construction of this equivalent to 'Route D' (as contrasted with the NB) is materially indistinguishable, nonetheless, Route D is unjustifiable, from the perspective of the 'conditional' requirements insisted upon by TE. This fact will (as below) be considered in the context of the Guidance on Compulsory purchase process, in conjunction with considerations of the efficient use of land, due to the greater impact on the landowner arising from the splitting of the field (in farming and access terms). It was identified that

²⁴ Proof, Willson, para 5 [NR-W5-1]

²⁵ Proof, Willson, para 5 [NR-W5-1]

Route D would also increase maintenance obligations on the landowner due to there being two sets of fences, not one.

41. Further, noting the c.60m of bridleway from point B1 to 'Commencement of New Bridleway on the Land and Rights of Way Plans' [APP07-2], Mr Lane has since confirmed that the risk of a insufficiently familiarised horse reacting to a passing train along this section, will be no less on Route D, than along the NB. Both routes utilise this section, and if a horse might possibly respond unfavourably, a rider should not take the risk of riding along it. NR has, as set out below, sought to minimise the impact on landowners by virtue of the NB proposal, by seeking to impose rights over land rather than compulsory acquisition, by minimising the extent of the rights required to deliver the scheme and by locating the NB at the side of the land affected, adjoining NR's existing land in the most efficient layout. It would also only require one fence (on the western side of the NB) due to it being located next to the railway
42. Bridleway west of railway; 'Western infield route' (Route E; Southern Field): The main north-south portion of the public right of way runs close to a watercourse, and is susceptible to flooding and boggy conditions, as to mean a requirement for significant and ongoing engineering and drainage works (including a requirement to raise the path above the flood level and ground improvement, further drainage provisions, and probable alterations to the bank of the adjacent stream This would also mean an excessive cost for delivery²⁶. Further, Route E, as with Route D, would increase the maintenance obligations on the landowner due to there being two sets of fences, not one.
43. Separately, Mr. Billingsley has since confirmed that Route E was (and remains) notably more difficult (than the NB) to justify, in interference with human rights terms, due to the greater impact on the landowner which would arise from the splitting of the field, albeit less impactful than Route D.

²⁶ Proof, Aston, para 7 [NR-W7-1].

44. The consideration relating to the c.60m of bridleway, arising in respect of CL's evidence and in relation to Route D, applies equally to Route E.
45. As regards fencing, Mr. Willson confirms that there is no intention of install a 'brutalist' fencing style for the NB, and that post & wire type fencing is proposed. This is a positive factor that potentially also has bearing in terms of the future enjoyment of the NB.

The Order, in context with Routes D & E

46. Furthermore, in the context of Routes D and E, it is not considered that the Scheme discloses any deficiencies such that would need to be overcome or mitigated by an alternative. In any event, the Scheme is not considered incapable of passing the applicable tests and Route D and Route E as alternatives would not materially better address concerns regarding equestrian use of the NB.

Matter 2: 'Safety case for extinguishing the bridleway at Tackley Level Crossing'

47. A comprehensive framework of policy and guidance governing level crossing safety²⁷ – carefully authored by NR and its strategic rail partners, in conjunction with superintendence by DfT – underscores the fundamental importance of delivering upon this safety imperative. This combined strategy emphasises a steadfast commitment by NR, wider industry, and HM Government, to the objective of minimising – to the extent of achieving full avoidance – level crossing accidents.
48. The safety risk presented by use of the TLC – immediately preceding the TTRO – was alarming and unacceptable. In context, the TLC had been recorded to fall within the highest 10% of overall risk category of the 545 level crossings for NR's Western Route²⁸.

²⁷ ORR "Principles for managing level crossing safety" dated 15th July 2021 [IA6]; 'Enhancing Level Crossing Safety 2019/2029' [IA7].

²⁸ Route from London Paddington to Penzance, through Bristol and up to the boundaries with Wales.

49. That the TLC is located on a key strategic freight route and on the passenger service link between Oxford and Banbury, is consistent with the section being a higher speed line, carrying a high, daily number of stopping and non-stopping passenger trains, and freight. Indeed, the average weekday of 114 traversing trains exceeds, by some 42 trains, the daily average passing over open footpath and bridleway crossings, nationally²⁹. The TLC railway section is also constantly in use, including by freight during the Night Time Quiet Period³⁰.
50. The TLC discloses a highly specific arrangement in the form of a Station Passenger Crossing (“**SPC**”) for use by station and non-station users. The SPC arrangement at Tackley is also unique for the UK, for carrying a public bridleway. TLC is the sole means of accessing the up-direction platform from Tackley village, to the west of the railway. In that, prior to informal closure, the TLC had provided the sole means of accessing the alternative platform, means that any station user/train passenger approaching from the village intending to travel to Oxford, had to cross the live railway (with the same being true, in reverse)³¹. Further, as Mr Greenwood has explained in this SPC context, the application of ‘Design Standards for Accessible Railway Stations’, NR’s ‘Accessible Travel Policy (Making Rail Accessible)’ in conjunction with the ‘Disabled People’s Protection Policies – A Regulatory Statement’, means that unobstructed passenger routing between platforms must be achieved.
51. The census data recorded is comprehensive. Prior to informal closure, the TLC had been the subject of a significant number of pedestrian traverses. Contrarily, the average daily number of equestrian traverses was very low, at merely 1.14. These comparative levels of TLC traverse, are also shown to be accurately representative of use outside of the census period.
52. An Impact Assessment Report (“**IAR**”) has been produced in respect of TLC to comprehensively assess safety risk, at expert level, and in hypothetical consideration

²⁹ Proof, Aston, paras 6.32-6.34 [NR-W7-1].

³⁰ 0000-0600 hrs.

³¹ Proof, Aston: paras 6.22-6.23 [NR-W7-1].

(since the TLC is closed). This provides an up-to-date appraisal. The IAR has used the latest available dataset, including the census carried out prior to closure, and a train count undertaken in April 2024. The IAR adopts all current best practice and methodologies, including the Gross Disproportionality Factor as part of the Cost Benefit Analysis process and current costs. The IAR scopes all possible mitigation measures again and concludes that closure is the only suitable course of action to mitigate risks to so far as is reasonably practicable (SFAIRP). The IAR incorporates findings and conclusions in respect of major sources of unacceptable safety risk:

- a) SPC form of the TLC: further to the above, introduces significant risk, as any passenger who may be running late for their train may be induced to fail to take proper care and attention when crossing the railway. Since this applies to users and non-users of the TLC, this means also that the TLC must make adequate provision for all users, across the mobility/ability/disability range;
- b) upon considered application³² of up-to-date census data immediately preceding the TTRO, and NR policy including the Census Good Practice Guide³³, the “50% safeguard” is properly to be applied to a body of users who are categorised as being either ‘vulnerable’ or ‘encumbered’ when traversing the TLC;
- c) by virtue of the increased traverse time for vulnerable and encumbered users, the TLC discloses non-compliance on its ‘Down Down’ sighting direction, for these users. This consideration is distinct from the SPC form of the TLC;
- d) a high number of (inadvertent or deliberate) misuse³⁴ occurrences on and around the TLC³⁵. This misuse, occurring in relation to all user groups, has been stubbornly

³² IAR, paras 6.7-6.8.

³³ GCPG [July 2017]; section 5. Para 6.9 IAR: census data gathered during 13.12.19 – 19.01.20. CGPG para 4.2 (preference for 9 days+ census) + Para 5.3 (Identifying vulnerable users) – through to the application of “structured expert judgment” (para 5.3.6.1).

³⁴ Proof, Aston, Table 2 [NR-W7-1].

³⁵ Proof, Aston, para 7.2 and IA3 [NR-W7-1]: Misuse history detailing all the incidents recorded at the crossing since the fatality in 2008 is provided in the IAR 2024 [IA3].

ongoing since the 2008 fatality. Most examples of misuse have been observed at the Crossing³⁶;

- e) misuse trends have included (deliberate or inadvertent) repeated misuse by equestrians, in multiple forms. This includes incorrect use of telephones, and omissions to use telephones at all.³⁷

53. The above principle risks in respect of the TLC, are also exacerbated by several intrinsic risks, including:

- a) the high volume of trains;
- b) an extreme variation in train speeds, at the point of passing TLC. The variation in train speeds is a major factor that has been shown to commonly lead to hazardous confusion for level crossing users, as there can be a large variation of time between the slower freight train and the faster non-stopping train. The variation in speed at TLC can be up to 50mph;
- c) potential for trains to be obscured or 'hidden' from the sight of the pedestrian traversing and other impediments to the ability of users to see trains. For SPCs in particular, high-risk scenarios can arise when a train is stationary, in the platform. A stationary train in the closest platform to the crossing user can obscure the sight of a second train coming on the adjacent line, or, a train stationary in the platform can divert a crossing user's attention away from the adjacent line³⁸;
- d) obstructions potentially making it difficult for users to see approaching trains. Notwithstanding the measured sighting (from 3m, 2.4m, 2.1m and 2m away from the nearest rail), a high number of passengers standing on the platforms could

³⁶ Proof, Aston, para 6.13 [NR-W7-1].

³⁷ Proof, Aston, para 6.26 [NR-W7-1]: on one occasion during 22/10/2019 – 28/04/2020, five riders (three adults and two children) crossed the railway with horses without first contacting the signaller [NR-W7-2].

³⁸ Proof, Aston, para 6.37-6.40 [NR-W7-1].

cause a restriction of sighting to approaching trains. Separately, are known issues with vegetation, and weather that could impair visibility at TLC or of approaching trains³⁹;

e) poor user behavioural norms of users, and general user unawareness.

54. Separately from safety risk profiling, the complete range of hypothetical mitigations have been considered by NR. These include: closure by equestrian subway; installation of a footbridge and remotely locking gates at TLC for bridleway users; installing Integrated Miniature Stop Lights (MSLs), Overlay MSLs or interfaced Overlay MSL (Flex); re-wording the non-standard signage already present at the crossing; and diversion through the 'in-field' route, the 'western in-field' route, via Barwood Bridge, or via the 'Northern Route'.
55. The 'hypothetical implementation' of all mitigations that are feasible for improving level crossing safety has been assessed in the IAR. This includes the implementation of mitigations, both singularly and in-combination. This cumulative assessment further demonstrates that the residual level of safety risk is unacceptable⁴⁰. This in-combination of mitigations cannot achieve SFAIRP. This demonstrates that other than regularised closure of TLC, there is no other mitigation, or assembly of mitigations that will acceptably improve the safety risk presenting at TLC.
56. The IAR demonstrates that optioneering in respect of TLC closure – essentially combining both the quantitative and qualitative assessment of safety risk, as defined – has been robustly undertaken in conjunction with, as Mr Greenwood confirms, an array of technical expertise, suitability and design standards, cost, deliverability and maintainability criteria. This culminated in the single, recommended option selected: closure, with the stepped FB with lifts, and creation of a new bridleway route.

³⁹ Proof, Aston, paras 6.46-6.47 [NR-W7-1].

⁴⁰ IAR [IA3] of [NR-W7-2] paras 6.7-6.8; para 17.93: In-combination assessment of suitable mitigations.

57. This provides a carefully considered introduction to the intricate cost benefit analysis produced by Mr. Aston, which includes application of a Gross Disproportion Factor for each option, in the (hypothetical) mitigation of risk. This analysis comprehensively verifies that the option selected, viewed in all relevant site-specific circumstances, is the correct outcome. The rounded analysis shows that only this option suitably mitigates risk to SFAIRP, and will ensure the value-for-money 'test' is met.
58. The severity of the safety risk, and completeness of the optioneering exercise, evidence also that, even if the 'non-compliant' sighting distance could be mitigated satisfactorily (which it cannot) and, even if misuse could be mitigated or eradicated entirely (which it cannot), nevertheless, no form of technological or other risk mitigation solution, could adequately control the risk presented by the SPC form of the TLC⁴¹. Any MSL system while an improvement to the current safety mitigations cannot, and will not, prevent a user misusing the crossing and placing themselves at great risk of being struck by a train. SPCs should have a minimum warning time of 40 seconds⁴², if not to inadvertently invite 'misuse' by impatient users.
59. As firmly established in evidence therefore, the clearly unacceptable safety risk, is now. The fact of the TTRO does not dilute the fact, for this provides no permanent solution.
60. The safety solution to be gained from permanent closure of the TLC, is of very high-merit. Yet, its implications will be simple: rail passengers wishing to catch or alight the train at Tackley Station will benefit from a safe route between the platforms, and will no longer cross the railway at grade. Non-station users will be similarly protected from railway safety risk. It is entirely unsurprising that very few objectors do not positively agree NR's position regarding the appropriateness of the TLC closing, to all user groups, on safety risk grounds. Nonetheless, no objector apparently suggests, on any evidential or analytical basis, that the TLC should remain open to pedestrians and cyclist users. Also, all equestrian witnesses ultimately agreed that TLC should permanently close. Moreover, in that some (albeit very few) equestrian objectors have asserted (but

⁴¹ Proof, Aston, para 6.24 [NR-W7-1].

⁴² Proof, Aston, para 7.9 [NR-W7-1].

without any evidential or analytical basis) that the TLC discloses no unacceptable railway safety risk for equestrians as a user group, nonetheless, this fails to grapple with the SPC form of the TLC, and overlooks all of the principal risks (including the well-evidenced propensity for misuse at the TLC by equestrians) and separately, the intrinsic risks also.

Level Crossing Safety: Legislation, policy and decision-making

61. Mr Greenwood has explained the significance of the on-the-ground safety assessment of Mr. Aston, in the context of the overarching statutory and policy basis⁴³ underpinning fundamental health and safety legislation, its application to addressing risk at level crossings, and also to NR's business in assessing level crossing safety, operational efficiency and network resilience. He has explained that safety is at the fore of NR's national operational strategy for level crossings, consistently with its duty of care to promote public user safety and the avoidance of unacceptable hazard. This may be critiqued in the context of users who do, and do not, share protected characteristics under the Equality Act 2010, and whether or not the safety environment of the TLC, vis-à-vis these users, is compatible with NR's discharge of its duties and responsibilities of NR under the Railways Act 1993 (including section 117) and Part 1 of the Health and Safety at Work Act 1974 (sections 1-3). For level crossing safety, this encompasses the requirement to reduce level crossing risk, to SFAIRP. In the present case, Mr Greenwood confirms, there would be critical incompatibility, were the TLC not to be permanently closed. Separately, support for the same imperative swiftly to be found by reference to NR's operating Licence (e.g. condition 13 (Safety and Standards) of Part D (Standard Industry Obligations) under Part III) which is reflective of s.117 of the 1993 Act.
62. Similarly, in the context of NR's Licence and also the evidence of Mrs Holbrook, Mr Greenwood has explained, endorsed by HM Government's New National Policy Statement for National Networks 2024 ("**NN NPS 2024**") in addition to other policies⁴⁴, the interface between promoting growth for the railway, with formalising a permanent

⁴³ For example: 'Principles for managing level crossing safety' [SoC APP35].

⁴⁴ NR SoC [APP.30].

closure of TLC. This policy is but one important signposting of the suite of policy support for promoting the operational efficiency of this section of the rail network⁴⁵, consistently with NR governance. The outcome of the proper application of this policy, in the context of TLC, is plain: its permanent closure will promote operational efficiency, and avoid the incompatibility with the many and various efficiency objectives, consistently with the OCP and generally (e.g. through an enhancement to linespeed capability; capacity enhancements, the avoidance of potential disruptions caused to passing passenger or freight services by reason of an incident occurring at TLC; knock-on delays for the wider network; and Schedule 8 liabilities, etc.).

63. The import of wider responsibilities and a more intensive risk management regime, twinned with discharging the public sector equality duty under s.149 EA, in the context of the SPC at Tackley station, has been thoroughly explained. This, in turn, means having due regard to the need to minimise, if not remove, disadvantages suffered by passengers due to a protected characteristic and to properly account for disability. For TLC, this means requiring reasonable adjustments for disabled passengers in order not to effect discrimination.
64. Separately and in conjunction with Mr. Aston's appraisal of level crossing 'options' (and NR's separate optioneering exercise on the alternative bridleway routes – below) is the application, to NR, as an arms-length public body, of the principles underpinning Managing Public Money as to Costs ('MPM'). The responsibility for NR to ensure that it manages public money responsibly, is a very high one, and applies absolutely to the operation and enhancement of this section of the railway, including TLC, for Control Period 7 – and beyond.
65. In the context of the sighting non-compliance disclosed by TLC, Mr. Greenwood has explained why policy that addresses the important concepts of vulnerable and encumbered use, has been constructed in the way it has. This construction meshes completely with Mr. Aston's application of these concepts. This is also synchronised

⁴⁵ NR SoC [APP.30] 5.46- 5.51 and 6.22-6.24.

with a plethora of respected Order (and other) Decisions of Inspectors on behalf of the Secretary of State, in true application of these concepts, in analogously very serious circumstances of unacceptably hazardous level crossing scenarios.

66. Mr Greenwood also draws definitively upon the railway safety-specific concept of 'misuse', in conjunction with all types which have historically occurred on and around TLC; whether deliberate or of accidental human error. It is clear that high-risk occurrences such as that of an 'obscured' train, etc., inadvertently exacerbate the hazardous consequences of misuse, just as Mr. Aston has recorded and weighted in his assessment. Similarly, the treatment under policy of 'near-miss' incidents exemplifies why the catalogue of misuse, and its outcomes, at TLC was so very concerning, up to the date of closure under the TTRO.
67. The robustness of NR's expert safety assessment, is therefore considerably reinforced by all extant policy and standards informing and regulating level crossing safety. Separately, the many positive outcomes of a permanent closure of the TLC, in railway operational efficiency and resilience terms, can easily be seen against the background of NR's various obligations and responsibilities, as provided for by NR's governing statutory framework and Licence. Together, this more than makes good the need and imperative, now, for permanent closure of TLC.

Matter 3: Suitability of NB: All Users

68. First, some short points. It is submitted that the NB is evidently suitable, and convenient – for both non-equestrians and equestrians. Indeed, noteworthy is that there have been no objections on the basis that the NB is not suitable or convenient for pedestrians or cyclists - only some concerns regarding their interaction with horses. Further, suitability and convenience, should properly be treated as materially distinguishable from 'enjoyment'. This distinction may be considered simply, by example: enjoyment is certainly not a prerequisite for finding either suitability or convenience. Linguistically and substantially, the concepts obviously differ. Therefore, if, in contrast (say) to use of the EB, use of the NB is perceived by some to be less enjoyable, this will not render the

NB to be unsuitable or inconvenient. Overall suitability and convenience for equestrians may encompass multiple factors, including: bridleway surface; width and adequacy of coincidence with pedestrians or cyclists; the fluidity of the ride, without being temporarily held-out by impediment, and the rider's appreciation of scenic amenity.

69. A logical starting point may be the duration of experience. The NB traverse will be brief, and will likely form a modest part of the overall hack, only. A walking horse will complete the c.860m alongside the railway line section in approximately 8-10 minutes. If trotting, this section will be completed in approximately 3-4 minutes only. Moreover, if assuming that a train will pass every 6-7 minutes during at peak times, and albeit no point need be made of this, this will not give rise to any high likelihood that all traverses of the NB during peak times will necessarily experience a train passing during peak times, and certainly not during non-peak times.
70. Both the surfacing and width of the NB are plainly suitable, allowing for a walking-trotting speed, and safe movement around others. The NB provides for relative continuity and fluidity of the hack, avoiding the need to navigate level crossing gating (which can present its own risk of entrapment for equestrians). In that the lineside scenic view will obviously be less impressive by virtue of fencing, this be transparent. In any event, the rider may also choose to enjoy the field view, similarly, with relative transparency.
71. Further, of interest to some equestrians, when incorporating the NB, 'circularity' (purist) is certainly not 'lost', even on their argued case. This could only conceivably be 'lost' were the rider to ultimately choose not to use the NB: so, it is the rider, alone, who would determine that outcome. Moreover, even if a 'circular' route were 'lost'⁴⁶ (which it will not be), this would not be any significant loss in overall terms, given that this 'circularity' is, essentially, a perfection. Such a 'loss' can very much be mitigated through other sections of the ride, or other rides. Moreover, when the NB is incorporated, this will provide access to substantially the same circular riding route as that

⁴⁶ As visible from INQ-12: Tackley Area OS map (Dr. Hales) (BHS: OBJ-60).

formerly incorporating the EB. Here, the distance differential will be instantly insignificant, with the route along the NB from TLC to the southern end of the EB being approximately 1330m, and the route along the EB, from TLC, to the southern end of the EB being approximately 900m (i.e. a very modest difference of 430m (or 4-5 minutes for a walking horse). Nevertheless, ultimately, the argument on 'loss' of 'circularity' cannot logically, still less significantly, inform the question of suitability or convenience.

72. Objections on 'suitable and convenient': The BHS' SoC⁴⁷ contention that the NB is not suitable or convenient, wrongly conflates⁴⁸ a view given on various safety-related factors. Suitability incorporates, and must be heavily headlined by safety, but it is wider. This conflation affords no distinct consideration of suitability outside of safety, or separately, of convenience.
73. In the context of NR's wider evidence on the issue, Mrs Holbrook confirms⁴⁹ NR's view that the NB will be an alternative right of way that will be both suitable and convenient. In reflecting that a previous approach of the Secretary of State has been not to conflate suitability and convenience, or import within it, a distinct consideration of enjoyment (i.e. enjoyment derived from exercising a particular right of way), Mrs. Holbrook has considered matters relevant to whether users may amply make their journey without affecting (or, materially so) the purpose of that journey or the ability or the relative ease with which they may make that journey. Mrs Holbrook reflects that suitability and convenience has been considered from the perspective of all users, and incorporates the forceful factors of in principle safety and accessibility. This aligns with SoS thinking, and is perfectly logical.
74. Mrs Holbrook therefore confirms NR's view that the NB will be suitable and convenient for all users, not least for the following reasons:

⁴⁷ SOC-OBJ-60 para 24.

⁴⁷ SOC-OBJ-60 paras 25-26.

⁴⁸ SoC paras 25-26.

⁴⁹ Proof, Holbrook.

- a) suitability, in that the safety of the NB for users, relative to TLC, means that the NB will provide for a very significantly better environment – a plainly suitable one, in this context alone – for all users. For equestrian users in particular, the in principle acceptability of the NB, in safety terms (surely, a factor of high magnitude) is agreed. Importantly also, BHS' acceptance rightly accounts for an equestrian ride adjacent to a passing train when a train is passing, and is not confined to a ride only in absence of a passing train;
- b) the Proof of Mr Lane⁵⁰ also affirms the suitability of the NB for equestrian users. Notably, OCC (as HA) separately agree this suitability, including, but not limited to, the issue of equestrian safety;
- c) suitability, in that the presence of a bridleway adjacent to and in parallel to the operational railway, is acceptable in principle and indeed, is not uncommon. In context also, up until temporary closure of the TLC, there was close interaction between equestrians and the operational railway. Moreover, in respect of two of the alternative options for bridleway routes, the apparently preferred route (Route D) incorporates a not insignificant section (i.e. 60m) passing similarly adjacent to the railway;
- d) convenience, in that it substantially replicates the journey previously made by users of the TLC, from Tackey village to the east of the railway line (including to Pigeon's Lock⁵¹). For non-equestrian users also, the NB will provide connectivity with Tackley village, the station and the EB, and onto Kirtlington, etc.;
- e) convenience, in that it is of a substantially equivalent distance and corresponding journey time: ((i) the EB between points A1 and A2 is approximately 900m; and (ii) the NB between 'point B1 and 'Termination of New Bridleway' [APP7.01] measures approximately 925m, with an additional 375m from the Termination of the New Bridleway to point A2, as to mean a total distance (of the NB, plus the

⁵⁰ Proof, Lane [NR-W6-1]

⁵¹ OBJ18, for example.

existing way up to point A2) of approximately 1.3km). In context also, there is also no suggestion that the NB is likely to be serving many utility trips (as contrasted with leisure or recreational trips), and so the very modest relative increase in journey time will carry no or negligible significance; and

- f) convenience, in that there will be no need for the equestrian to use a telephone, negotiate double gates or be concerned for their personal safety.

- 75. It is also a very positive and informed indicator that, on their consideration, OCC has not questioned the suitability or convenience of the NB. In context, the OCC is keen to be satisfied of the safety of the NB for equestrian users. Ultimately also, the Order will require that the HA be reasonably satisfied with the NB (under Article 8(3)), so reinforcing the consideration of suitability and convenience.
- 76. Further, regarding comparative journey times, the estimated timings – for the three categories of users – using the NB, as compared with the EB (both, as if the TLC was open, and separately today – with TLC closed to use) are broadly comparative⁵². Adopting reasonable journey-time assumptions, for pedestrians, a differential of approximately 6 minutes separates pedestrian use, with the lengthier NB route taking 18m 39 seconds⁵³. For cyclists, two minutes, only, separates the on-road cycling time; with just one minute separating the off-road cycling time. For equestrians, use of the NB (excluding the TLC) will be longer by a range of 4 minutes – 5 minutes 23 seconds.
- 77. In the context of a leisurely walk, cycle or equestrian ride, these additional times are nominal and plainly insignificant. Central to this use of the NB, however journeyed, is a leisure trip; not a utility trip. Hence, the comparatively longer journey times pose no negative considerations. There can also be no credible suggestion that users, still less of any significant number, would be at all dissuaded from use of the NB, or at all inconvenienced by virtue of the comparatively lengthier route.

⁵² INQ-05: Note on estimated timings.

⁵³ A difference of 6 minutes, 7 seconds.

Enjoyment

78. There is good reason for advocating that ‘enjoyment’ of itself is not a ‘test’. First, it appears to be the approach of the SoS in previous decision-making (Essex TWAQ) that ‘enjoyment’ is not encompassed within consideration of ‘suitable and convenient’, but rather is capable of relevance, but as an additional factor.
79. In this context, first, pedestrian and cyclist use of the EB will essentially remain unchanged by the Scheme, save for: (i) the characterisation of their use of the FB being permissive – which cannot conceivably impact on enjoyment⁵⁴; (ii) and the relative (but, negligible, as to be inconsequential) increase in distance/journey time when using the Footbridge, comparatively to the TLC (if assuming the journey is not held-up, by a train passing). The provision of the NB does not diminish this use, experience or enjoyment.
80. The NB will allow for enjoyable use by pedestrians and cyclist use. Overlaying with consideration of suitability and convenience, it is not anticipated that the experience of the pedestrian or cyclist using the NB, potentially in conjunction with an equestrian, will be any materially different an experience compared to any other bridleway. Albeit the EB, for much of its length is at greater distance, there is no evidence to suggest that the noise impact from a train passing will detract materially from enjoyment. Scenically, the NB will still allow for wide, outward views, such that there will be no discernible difference, between this and many other local experiences. The width, surfacing and fencing is appropriate for the bridleway. There is no good reason to suppose that the fencing, will be considered impinging or detracting from enjoyment.
81. Even if the use of the NB does prove comparatively less enjoyable for a user, as a matter of their subjective judgment, this is highly unlikely to prove any material difference to the experience (and, would also not render it unsuitable or inconvenient).

⁵⁴ The circumstances of this permissive use is addressed separately.

82. There is no reason to suppose that provision of the NB will in fact cause any users, whether travelling to/from Kirtlington or otherwise, to alternatively favour use of the EB. To the extent that there may be such users however, the EB continues to provide an alternative.
83. It was only in relation to equestrians that any evidence was put forward of enjoyment of the NB being materially less than enjoyment of the EB. Those equestrians affected on the ground are very likely to be very low in number. The census records an average daily equestrian use of 1.14 traverses (both directions). Equestrian witnesses to the Inquiry, amounted to 5 adults. That there are many, varied and attractive public bridleway routes within or which connect to the locality, in addition to private licensed access for some, is compatible.
84. Albeit equestrians' physical passage along and 'enjoyment' of the EB will of course change – this is an inevitability – because of the permanent closure of the TLC in conjunction with what is the only reasonable, feasible and deliverable option. The significance of the argued 'loss' of a 'circular' route, in this certain context (even if 'loss' were correct, which it is not: the NB provision itself prevents this – that is, even before the value of 'circularity' is considered) must be logically viewed, with sensible proportion. Weighting allows for this. That argument should not therefore be magnified or otherwise distorted, as would obscure matters of plainly higher and high relevance. Otherwise put, the very separate question of whether or not an equestrian may enjoy, with comparative ease, a (purist) 'circular' ride outside of the EB, is simply not an important question for the SoS – indeed, it is barely achieves relevance. Again, even were this consideration prefaced on fact – which is not so. The BHS apparently fully understands this, and does not seek to elevate the argued 'loss' of a 'circular' route in anywhere near the terms that (few) individual equestrians subjectively have. Yet, the majority of the equestrians heard at Inquiry seemingly appreciate some sense of proportionality on their claim, when flagging the ample alternative and pleasurable riding routes locally found, which have enabled them to continue their riding, ever since the TLC closed over 4 years ago. Apparently, they have all remained local, and have remained active equestrians – just as other active equestrians, equally

not shown (by the census dataset) to have been using the TLC. The route incorporating the TLC is also not unique in its merit for this locality, and no equestrian suggests so. That is unsurprising, for, even on objectors' own claim, many other partially-circular routes exist, are accessible and are accessed. These are also not confined to licensed access, or to the many road sections of 30mph or less. Importantly, this accounts only for those which are reachable from a hack originating from home, a riding school or livery. This does not even account for those hacks which can originate elsewhere, when being driven out (a relatively short distance) to begin a ride. Therefore, that these other routes are not truly 'circular' (purist), is respectfully, truly insignificant.

85. In further overview:

- i. the NB avoids the need for telephone use, avoiding the potential difficulty for the rider who tries to use while mounted, or who dismounts and holds their horse, and moves back from the gates as required (if the train is heard). This will mean the prospect of bringing the rider closer to a passing train than if using the NB. Separately, is TLC gate management: the first gate must be opened, the gate passed-through and closed behind, before the traverse to open and close the far gate. This gate negotiation is an impediment, and presents a safety risk of entrapment, as Mr Lane has confirmed;
- ii. if the amenity of the EB for the equestrian is particularly enjoyable, then the opportunity remains to ride this. The NB does not change this;
- iii. even were the argued 'loss' of a 'circular' route at all conceivable (but, by virtue of the NB provision, and the reality of 'ultimate rider choice', this cannot be so), this would not reasonably discourage local equestrians from using any other section of local bridleway, including circular routes, whether or not those routes engage with 60mph roads. Some experienced local equestrians do continue to cross or use 60mph road sections, in order to link with other bridleway routes. That is evidently a matter of personal, experienced choice, and one that is

apparently commonly taken-up. Of course, since April 2020, the very few equestrians then using the TLC must have transferred to (and, successfully so) alternative bridleway routing, in accordance with their personal preference. A permanent 'switch' from the EB/TLC will therefore likely affect very few equestrians. Local area incorporates multiple bridleway routes. Further, prior to closure of the TLC, because of the interface with the operational railway, only experienced or adequately supervised riders (and familiarised horses) should ever have ridden over the TLC; and

- iv. to posit, even if the factor of enjoyment were considered in the round, with convenience and suitability, the end outcome would be the very same, in this case. The NB will plainly be suitable and convenient – and enjoyable. The NB might not be every equestrian's preference, or choice, but that is neither the 'test' nor of any relevance for informing the 'test'.

- 86. Finally, quantitatively, equestrians will experience a material increase in local bridleway, through provision of the NB – over which equestrians may exercise their full choice, whether to use.

Matter 3(b): Suitability of NB: 'Safety implications of use with horses'

- 87. This Matter 3(b) section should be read together with the section (below) which addresses "Objections" – insofar as these incorporate representations concerning equestrian-safety issues.
- 88. The evidence of Mr Lane⁵⁵ on equestrian-specific safety and other issues in connection with the NB, is expert, comprehensive and compelling. The Inquiry has heard no other expert evidence, on the principal issues. This evidence should attract very substantial weight. Illustratively, very few questions were asked of Mr Lane, by objectors.

⁵⁵ Proof, Lane, [NR-W6-1] ; Combined Rebuttal [NR-W9-1]; Lane (oral evidence).

89. My Lane makes the overarching point that the reaction of the horse to passing trains – or indeed, traffic – will vary according to their familiarity (that is, with or without ‘formal training’) in conjunction with the rider’s own experience. The reasonable expectation is that only experienced equestrians will ride adjacent to the railway, and ride only with a degree of familiarisation, adjudged with regard to the individual horse. The training of riders, the gaining of rider experience, and the process of horse familiarisation with trains, is without particular complication.
90. The general expectation⁵⁶ is that no familiarised horse will be frightened by a passing train.
91. As Mr Lane confirms – and all BHS guidance consistently presupposes – the manner in which a horse will behave and is competently trained to be accepting of traffic or trains passing, will be substantially the same. Significantly in this context, from her/his original point of hack-out, the rider is very likely to have sufficient experience to proficiently ride alongside vehicle traffic. Consistently, the familiar horse will probably be largely unreactive to the presence of the train, in terms of what is appreciable, still less be affected to an elevated reaction of fright.
92. Inevitably, as with all bridleway use, safety will primarily be dependent upon the individual horse and rider. Within the particular locality of the TLC, any consciously inexperienced rider or unfamiliarised horse, will retain a bridleway option (of many local options) through use of the length of the EB. Again, however, it difficult to perceive of many equestrians reaching the NB without the adequate experience developed from their use of local roads (even if minor roads).
93. Mr Lane’s expert overview is tellingly consistent with outline BHS’ guidance on train noise impact – but is considerably more prescriptive. As Mr Lane confirms, a sudden appearance of a fast-moving train might ‘startle’ (not ‘frighten’ – a valid distinction not disputed by BHS, or any equestrian objector) a horse, but will likely swiftly adjust,

⁵⁶ BHS pointed to no differential, anywhere in BHS guidance.

without any further issue. Even in the event of a frightened horse, the expectation is that a competent and experienced rider would retain control, provide swift reassurance, and enable the ride to continue, without issue. Ultimately, only a frightened horse that has reached an uncontrolled state, without successful intervention from an experienced rider, will present the real risk of bolting. Even then however, bolting is not an inevitability: the horse may instead twist and turn on the spot, so allowing for further rider intervention and calming. A frightened horse can also withhold from entering a state of flight, and become increasingly less frightened as the train passes away.

94. Ultimately therefore, the expert evidence; indeed the only evidence that is before the Inspector, is that bolting (or bucking, or rearing) will occur very rarely in overall terms. The safety risk presented by the NB will be commensurate: for, the experienced and responsible rider will already appreciate that a horse that is not firstly familiarised with the railway should not be ridden there, in the first instance. Importantly, albeit the risk is negligible, it is in no way obscured from the rider.
95. Separately, the horse height-train differential is not considered to have any or any material effect on how the horse reacts. Here again, there is simply no developed analysis, or indeed any expert evidence, which even begins to argue the contrary.
96. The above is (if illustratively only) represented through example videos⁵⁷ of two, typical equestrian hacks undertaken adjacent to the railway during which a high speed train passes in close proximity (at heights, elevated above horse head) provide some – it is submitted – good, evidence of an unremarkable and safe ride, involving familiarised horses, which do not exhibit any startled or frightened reaction. This includes child riders. There can be no evidence to suggest that this is confined to especially trained

⁵⁷ Videos played to Inquiry on 19.06.24. Hypertext-link to videos in “Horse Riding Adjacent to Active Railway Lines” (pg. 2; Videos nos.1 & 4) [compiled by J Bridger, updated 6th April 2021; British Horse Society Access & Bridleways Officer for West Berkshire & Southern Region] – appended to Lane’s Proof at CL2).

horses, as opposed to horses which are suitably familiarised. In authenticity terms⁵⁸, full weight may properly be given to these videos.

97. Of the NB, none of the site-specific factors identified to be relevant by Mr Lane, mean that the NB presents any inherent safety risk, or would exacerbate risk: (i) existence of vegetation or other screening between trains and bridleway; (ii) the possibility to move off the bridleway path without striking a fence; (iii) width, and possibility of distancing from the railway; and (iv) sightlines and acoustic exposure. Contrastingly, the immaterial site-specific factors identified by BHS, is a combination or speculative and incomprehensible.
98. In addition to other evidence and information before NR, including that of Mr. Willson on engineering constraints and technical feasibility, Mr Lane has carefully appraised – principally, from the perspective of the safety of equestrian use in conjunction with other users – the purported ‘alternative’ routes (Routes A-E) advanced by BHS, which have been seconded by (a very modest number of) equestrians. In that these have been advanced at all, it is immediately clear, respectfully, that none of these bodies/persons are sufficiently placed to understand whether or not any such options were at all feasible or deliverable in the first instance. Indeed, none are feasible or deliverable, for various reasons, explained.
99. Given this, Route D and Route E present no significant comparative ‘safety’ advantage, on objectors’ own argument. Further, if it is accepted that an individual horse might be frightened by a train, any route with a shorter section of bridleway alongside the railway that might encourage a less competent rider on an unfamiliarised horse, to ‘risk it’ in the hope that they may not meet a train, becomes a less safe route. The NB will be discouraging of such ‘risk’-taking.

⁵⁸ INQ-07: Note addressing authenticity of videos appended to Lane’s Proof.

Equestrian safety: other considerations

100. With regard to equestrian use, the TLC discloses a conspicuous level of misuse. Rider disobedience with regard to telephones (e.g. not using telephones; not replacing telephones), and contrary to clear signage, demonstrates the equivalent possibility that a rider may also disobey BHS guidance for level crossings (e.g. to wait in a safe position away from the white stop line until the train has passed). There is good evidence of irresponsible and hazardous misuse by equestrians. Given that the TLC presents an unsafe level crossing for pedestrians, cyclists, and also equestrians (albeit it is appreciated that some equestrians do not accept this, and despite Mr. Greenwood confirming that a horse has the capacity to catastrophically derail a speeding passenger train), there can be no challenge to the acceptability of permanent closure of the TLC between points Z1-Z2. Following robust optioneering, there is no alternative bridleway route, other than the NB.
101. Objectors' preference for Routes D and E, in fact underly their acceptance and wider acceptability of riding adjacent to the railway, without incident. This preference mirrors use of Route D for "some years" already⁵⁹ by local riders. Routes D + E are credibly susceptible to the prospect of an equestrian riding this section whilst a train passes, and for these riders to include those who would prefer not to ride alongside a train, and 'chance' whether this simultaneous experience may occur. The assumption must be that a responsible rider – whether a single rider or in a group – will not 'chance' whether to traverse the c.60m section adjacent to the railway line, if they do not wish to ride alongside a train. The rider's responsible assumption must be that they meet at least one train, and so familiarise their horse, accordingly.
102. Albeit the greater the length of adjacent bridleway, the greater the propensity for a train to pass, nonetheless, the risk of adverse horse reaction will remain the same at whatever moment the train passes. Neither a single nor a group rider can consistently guarantee riding this section, without a train passing.

⁵⁹ BHS Statement of Case [SOC-OBJ-60]: para 30.

103. The above also addresses what are, respectfully, piecemeal, unevidenced and unstructured concerns, presented in the (late) 'rebuttal' of Mrs S. Eeley⁶⁰ and (late) Proof of Mrs J. Collier⁶¹. These notably do not engage with (still less, dispute) the careful and structured analysis of Mr. Lane.
104. Overall therefore, the safety risk implications of the NB in conjunction with equestrian use, are notably low, and eminently acceptable. Moreover, no perceptible or material distinction could or should be made between the environment of an experienced horse, with experienced rider, when safely hacking along a local road (of less than 50mph) – and the environment of the same rider and horse hacking along the NB. Neither experience can be said to be free of risk, but both should nonetheless be viewed as acceptable. The reconciliation of these two judgments, is neither novel nor difficult, in the context of bridleway use and local equestrianism. The locality of Tackley is no different. Fundamentally, both experiences (and both locations) also admit, and indeed prioritise the subjective choice of the experienced, responsible rider.

Matter 4(a): Impact of scheme on the use of agricultural vehicles by landowner

105. The Scheme will not introduce any adverse impacts, still less, any objectionably adverse impacts on the use by local landowners of agricultural vehicles.
106. Only agricultural vehicle use has been raised by TE. This issue distils to the access to Plot 10. This has been adequately addressed through the amendments to Schedule 2 to the Order⁶² and the note regarding illustrative TE field gate proposals INQ-x.

Matter 4(b): Impact of scheme on the accessibility for all users

⁶⁰ (BHS: OBJ-60).

⁶¹ INQ-13: Statement of Mrs J. Collier (OBJ-63).

⁶² [APP01-1].

107. The disability- and mobility- specific policy, and its application, to the SPC environment, as introduced by Mr Greenwood, serves to underscore the significance of adequate accessibility for all users. The requirement for NR to comply with and act upon the ORR's Disabled People's Protection Policies: A Regulatory Statement⁶³. In that this steers NR's policy suite on improving mobility standards in relation to all applicable aspects of the business, it means interaction with other industry policy documents, namely, 'Design Standards for Accessible Railway Stations'⁶⁴ and 'Accessible Travel Policy Guidance for Train and Station Operators'⁶⁵.
108. Moreover, as a comparator, the inherently unsafe access over the TLC, does not allow for accessibility, in any real sense.
109. The FB will plainly provide for much-improved step-free access for pedestrians, those with cycles, persons with reduced mobility, and other vulnerable or encumbered users (including those with pushchairs and users with small children, etc.). Their journeys and corresponding journey-times, will improve considerably. Pedestrians and dismounted cyclists (combining both station and non-station users) will be enabled to cross the railway, without the potential interruption of waiting to cross.
110. However, similarly also, equestrians – together with cyclists and pedestrians – can make uninterrupted journeys via the NB, without this wait time. For the many reasons demonstrating why the NB is accessible by equestrians – a position supported by the BHS, in principle, and upon closer examination of the 'adjudged assessment' underpinning the BHS SoC, in truth, supported in substance – the NB also presents no impediment to accessibility.
111. The very significant, net gain from the Scheme, in accessibility – in overall terms – is plain.

⁶³ INQ-15: ORR: Disabled People's Protection Policies: A Regulatory Statement.

⁶⁴ INQ-16: Design Standards for Accessible Railway Stations.

⁶⁵ INQ-17: 'Accessible Travel Policy Guidance for Train and Station Operators'.

Matter 5: ‘Impact of Potential withdrawal of permissive footpath access over the proposed stepped Footbridge, and whether the Footbridge would impact upon neighbouring land’

Permissive use of FB

112. As Mrs Holbrook has explained, the FB is not being provided as an alternative to the public right of way over TLC. The NB is that alternative. Nonetheless, NR confirms that it will provide permissive access over the FB for non-railway pedestrians and cyclists. However, fundamentally endorsed by the legal doctrine of statutory incompatibility with NR’s statutory purposes (in this instance, the promotion of railway safety and promotion of operational efficiency) – that use of the FB by non-railway users, must be secondary to preserving the needs of the operational railway. Mrs Holbrook and Mr Greenwood have explained the inability (in a statutory incompatibility context - aside from the obvious undesirability to NR) of dedicating rights of way over operational railway assets, including land, used for the creation and working of a functioning and progressive railway. A potential future requirement for operational development or change (e.g. to implement safety upgrading) at Tackley station, however slim, cannot lawfully be stymied by a purported act of statutory dedication, which would necessarily militate against or frustrate the exercise of the statutory functions in play. Unarguably therefore, the dedication of a statutory right of way over the FB is therefore operationally unviable, as well as unnecessary – and would also be unlawful. Order Decisions have consistently found accordingly, pursuant to the High Court judgment in R (Ramblers Association) v SoS; (2) Network Rail Infrastructure Limited [2019].

113. The fundamental need not to bring about statutory incompatibility, in this way, does not render potential future development of Tackley Station any more likely. As such, the preservation of NR’s statutory functions, is no indicator that a potential for temporary closure of the FB, to allow for any operational development, etc., will ever be realised or be significant.

114. Furthermore, even in the circumstances of a potential withdrawal of the permissive footpath access – which, again, is nowhere foreseen, even on a temporary basis – the

impact will be minimal, nonetheless. As Mrs Holbrook confirms, it would clearly not impact on the ability for the user to journey from Tackley village, eastwards, towards Pigeon's Lock, or to Kirtlington, etc. given that this would remain possible along the NB. It will be recalled that it is the NB, which is the proposed alternative public right of way. The EB would also remain fully available for use, albeit as a cul-de-sac. Hence, any withdrawal of permissive access – unforeseen – would not materially affect local accessibility for all users, or to/from village connectivity, in overall terms.

115. Furthermore, Mr. Willson has explained, in the context of the objection of Mr. Ridout, that the intent of the Memorandum of Understanding ('**MoU**') between Network Rail and the Institute of Public Rights of Way (IPROW) and Access Management has been followed. There has been no 'contravention'. Similarly, no specific, contrary suggestion is made. In any event, the status and scope of the MoU, in no way operates to constrain NR from properly discharging its operational functions. Separately, matters relating to the incapacity for NR to dedicate the path over the FB, and the reasons justifying the alternative grant of a permissive route, are addressed above
116. So, the permissive nature of the footpath will not detract from the usability of the FB or its provision of completely safe access across the railway, and between platforms, complimenting the accessibility ensured by the provision of the FB lifts. That the combination of the FB and permissive footpath, is not itself being provided as an (or the) alternative to the public right of way over the level crossing, is entirely unsurprising, given the conceivable potential needs of the operational railway which understandably excludes the possibility of a dedicated right of way. NR here justifiably point to settled orthodoxy – here, the dedication of a statutory right of way over the Footbridge is neither necessary nor operationally feasible, owing to the incompatibility that would necessarily arise in connection with statutory purposes of the operational railway: namely operational efficiency of the railway and network resilience, or railway safety. The generality also applies, as is the case specifically here: NR does not dedicate rights of way over operational railway assets. This resonates with the fact that land needed for the creation and ongoing working (and future expansion) of a railway has been granted for this purpose only, by special Act of Parliament.

117. The incompatibility arising with the statutory purposes has been explained by Mr Greenwood. Not least, Tackley is an operational station which may be the subject of significant future change and development, necessitated in order that NR may discharge its statutory functions. A temporary closure of the FB may be required (say) for reactive safety reasons, as to allow for maintenance of the FB or of the underlying railway, and possibly during the hours of darkness when the station lights automatically turn off. A further, equally innocuous example, would be if the station operator needed to prevent access overnight, during a defined period when no trains are scheduled to stop at the station, in order to minimise an event such as a risk of anti-social behaviour. These appropriate interventions would be prevented, if the footpath were statutorily dedicated as highway. The prevention of access to, and along, the FB, as to allow for the installation of for safety-led actions or works, would be incompatible with a dedicated highway, along a certain route, would also requires consent from the local highway authority. There can be no guarantee that such consents would be given punctually, or at all.
118. Any (unforeseen, temporary) withdrawal of permissive access over the FB would remove the ability to make trips from Tackley along the EB. Even in this event, the ability to make journeys from Tackley village eastwards, towards Pigeon's Lock and to Kirtlington, would remain possible along the NB. Further the EB would remain available for use, up to the point of closure. So, local accessibility for all users would not be affected, or materially so, by any (unexpected, transient) withdrawal of permissive use.
119. Mr Audley and Mrs Holbrook second⁶⁶ Mr Greenwood's review of the issue, and confirms that NR would only withdraw permission if necessary for operational reasons. Transient closure to accommodate (say) essential, engineering works is a theoretical possibility and access may need to be prevented at times where it is clear that persons intend to make inappropriate use of it, potentially endangering themselves or the railway or interfering with the operation of the railway, but the permissive path would

⁶⁶ Proof, James Audley [NR-W2-1]: paras 5.28-5.33; Proof, Anna Holbrook [NRW1-1]: para 11.

subsequently be reopened for continued public use once the works were complete or issue resolved. In any decision to rescind the permissive access, Network Rail would be aware of and have regard to the value of the permissive access to the residents of and visitors to Tackley and the surrounding area.

Impact of FB on neighbouring land

120. Mr. Ridout's (original, but apparently no longer maintained) concerns over potential privacy, overlook, wider amenity, and light pollution from the FB, concerned the FB only (i.e. a component of infrastructure which is outside of the Scheme). As Mrs Bullock has explained, these matters were (and remain) exclusively for the local planning authority, in granting prior approval, against the backdrop of permitted development rights under Part 18 GPDO. The Local Planning Authority's ('LPA') grant itself confirms – as is separately signposted by the LPA's officer's assessment and report – a proper and robust consideration of these matters. The LPA's conclusion of itself is determinative of (earlier) impacts concerns. Yet, these matters have also separately been explored and addressed by NR, independently of the LPA and prior to the Part 18 Prior Approval Application, aided by several robust, expert appraisals. Together, these similarly confirm that no or no objectionable impacts will arise in privacy, overlook, wider amenity or light pollution terms, in conjunction with the FB provision or more generally.
121. These conclusions coincide entirely with the wealth of assessment, originally submitted in support of the Part 18 Prior Approval application⁶⁷, within a Landscape and Visual Impact Assessment⁶⁸, a daylight assessment⁶⁹ (concluding that any overshadowing should only be experienced during winter mornings when the sun sits low) and a Lighting Impact Assessment⁷⁰ (which includes various design features to limit light spill or glare impact). In this context, it is unsurprising that, as Mrs Bullock confirms, both local and national planning policy is strongly supportive of the principle of the Scheme.

⁶⁷ App. LB1 of [NR-W4-2]

⁶⁸ App. LB5 of [NR-W4-2]

⁶⁹ App. LB6 of [NR-W4-2]

⁷⁰ App. LB7 of [NR-W4-2]

Objections: General

122. The particular objections of the key objectors, such as they apparently stood at the date of the Inquiry, may be addressed in summary.

Tackley Parish Council

123. TPC acknowledges the need for safety improvement at TLC. The number of TPC members who have considered and positively endorsed TPC's objection⁷¹ remains unconfirmed. No exercise in 'reporting-back' to TPC members, is undertaken in respect of NR's position and evidence, since the stage of its Statement of Case, up to and including Inquiry. The complaint made⁷² of "erratic, disingenuous and...misleading" "communication" is unfounded and, respectfully, has not been elaborated upon. In that Mrs Collier spoke on the NB and its safety, respectfully, she had basically misunderstood that the EB was proposed for closure, in full, and to all users (i.e. including pedestrians and cyclists)⁷³: a significant misunderstanding that she also confirmed was shared by the body of TPC membership known to her personally. TPC's complaint made of failed consultation should additionally be viewed in the context of a mistake of this significance. As an equestrian, Mrs Collier did not suggest that any or any significant number of TPC members are equestrians, and confirmed also that many preferred local riding routes (integrating a public route or routes - including sections of road) are available to her, and remain entirely so under the Scheme. Mrs Collier's single noted incident of a bolting horse, over very many years of riding, was an illustrative example of one frightened horse within a group, not affecting the group. Mrs Collier's second example was illustrative of competent rider management, typical of experience. It

⁷¹ Up to the date of the TPC Statement of Case, dated 15 March 2024, of Cllr. Paxman [SOC-OBJ-63].

⁷² Stated by Cllr. Paxman, purportedly on behalf of the TPC (it being unclear who, of the TPC membership, has considered this): TPC Statement of Case dated 15 March 2024, para 40.

⁷³ Cllr Lygo attended many Inquiry days. It is understood that only one other TPC member (Mrs Collier) attended any part of the Inquiry.

should be noted that Mrs Collier's statement was written both from her perspective as a TPC councillor and in a personal capacity as a local equestrian; no TPC members had seen or endorsed Mrs Collier's statement and the elements of the statement which are personal should be considered separate from the views of the TPC⁷⁴.

BHS

124. NR welcomes BHS' participation. For immediate context, BHS' principal objective under its guidance has been noted. BHS' representation is made to part of the Scheme, only – being the NB⁷⁵. In that their original objection has apparently been the subject of some committee group discussion, it is not evident anywhere, how or by which committee the SoC was settled. There is no suggestion (or evidence) that the wider, regional or national membership of the BHS, or any one appointed Committee, or elected Member, is either aware of, or positively supports the BHS SoC. There is no dedicated 'reporting-back' function exercised by the BHS in relation to the concerns expressed under the SoC, with regard to evidence of which BHS was subsequently made aware. These will not be received as criticism; they are valid scene-setting. The BHS also acknowledges that its SoC is now stale, in part, but withholds formal amendment. The sole, identifiable contributory author to the SoC, is Mr Steel⁷⁶. This is not unimportant context, since WS accepts various relevant omissions (and errors of judgment) in the SOC, which infect BHS's overall assessment of the NB, such as it stands, and moreover, given that other relevant omissions are also well-apparent.

- a) Further to BHS' judgment on the safety of the NB, is Mr Steel's adjudged preference for 'alternative' routes, headed by Route D. Of all 'alternative' routes running through TE, neither Mr Steel's nor BHS is placed to advocate on deliverability. Neither Mr Steel's nor BHS confront the certain fact that Route D (and other alternative routes within TE) cannot, and will not, come forward.

⁷⁴ INQ-13: June Collier Statement on behalf of OBJ-63 Tackley Parish Council

⁷⁵ Equivalent to component (c) of paragraph 1.17 of NR's SoC [SOC-NR-1].

⁷⁶ Mr Steel is not an equestrian. The SoC imports no expertise on any equestrian matters. BHS's stance on the safety of the NB is also unsupported by any expertise in equestrianism.

Hence, absent actually addressing the point, in reality, BHS is advocating no alternative bridleway route, that is, if it is dismissive of the NB. This stance – also not acknowledged or confronted by BHS – is diametrically at odds with BHS’s stated guidance⁷⁷ and stated objective 5, in effect, to promote and secure the provision, protection and preservation of rights of way and of access for ridden horses over bridleways. Similarly, is “Advice on Use of Level Crossings (January 2023)”⁷⁸. Two consequences are evident from BHS’s stance: first, if it is dismissive of Route the NB, then it presents no actual alternative, in reality; second, if it is dismissive of the NB, the assessment underlying that decision is thin, incomplete, and plainly deficient for the many and various omissions in the underlying judgment;

- b) in that published BHS guidance⁷⁹ (e.g. “*Advice on Noise affecting routes used with horses*” [dated 22 November 2022 and last reviewed 14 June 2024 (as at the date of its submission into the inquiry)]) incorporates a disclaimer⁸⁰, nonetheless BHS does not advocate a departure from guidance, and no site-specific advice, in any appreciable format or extent, has ever been produced in relation to the NB;
- c) in that BHS elected not to refer the Inquiry to any guidance – that is, if Mr Steel had been aware of (abundantly) relevant guidance when settling the SoC, which is not apparent⁸¹ – there is plainly in principle support under BHS guidance⁸², for

⁷⁷ BHS asserts no departure from its guidance.

⁷⁸ “*Advice on Use of Level Crossings with Horses*”: “*Closure of Level Crossings*” (pg.7): “*Equestrians who currently use level crossings and equestrian representatives on LAFs should ensure that bridleway...crossings are not closed without acceptable alternative provision.*”

⁷⁹ INQ-14: Submission of British Horse Society Advice Notes.

⁸⁰ “[IMPORTANT This guidance is general and does not aim to cover every variation in circumstances. Where it is being relied upon, The Society recommends seeking advice specific to the site.]”

⁸¹ For example, [SOC-OBJ-60] para 46 [Table]; column: “*Lineside route*” stating – at odds with the Guidance, and making no reference to it (or depart from it): “*Proximity of trains intrusive and unpleasant for noise and fumes. Perceived physical threat of fast-moving heavy mass high. Higher risk if horses perceive a threat, and if rider is uncomfortable, which unsettles the horse.*” This is exaggerated narrative, unsupported by any analysis and wholly supported by BHS Guidance.

⁸² *Advice on Noise affecting routes used with horses*” [pg.2]: “*Horses can become accustomed to noise, whether...continuous noise or discontinuous noise (e.g. ...motorway, train)...it should be assumed that noise is likely to be distressing to horses which are not accustomed to it...Temperament and experience will affect whether individual horses can become habituated to noise or whether their distress level continues or rises. It must not be assumed that a noise that is accepted by one horse will be accepted*

siting a bridleway adjacent to and along an operational railway – and in relation to which no distinctions are made, for example, as to the precise (perpendicular) proximity of the bridleway from the railway; the level of noise source emitted from the passing train, detectable at the noise receptor or type of train passing; or the length of bridleway (as may overlay with consideration of the number of trains passing during bridleway use);

- d) the application of this guidance endorses BHS's own confirmation that accepts, in principle, that a bridleway, of any length, sited adjacent to and along an operational railway, is capable of being safe for equestrian use – in conjunction with a train (or trains) passing during use of the bridleway. This in principle acceptance is not therefore confined to bridleway use when a train does not pass;
- e) Albeit Mr Steel's Proof⁸³ confirms (d) above, his Proof, more widely, fails altogether to apply his own stated rationale, namely, that all "riders should be able to make an informed decision as to whether the [NB] is suitable for them to use or not". His Proof neither contends nor asserts that the NB is an exception to his proposition. Similarly, nowhere is it suggested that an experienced rider, by reference to any site-specific characteristics of the NB, would somehow be unable to adequately make the "informed decision";
- f) the application of this guidance, moreover, is considered in its appreciation of noise impacts on a horse using such a bridleway, in distinguishing between ("high speed") train noise, and sudden and unexpected, 'spike' noise (e.g. "a quiet rustling" or gunshot or noise from a construction chute). Hence, the BHS Guidance

by all...A quiet rustling is likely to have greater impact than a high speed train because the former could easily be associated with a predatory animal moving into position to attack whereas a train is a continuous steady loud noise which is not clearly a predator; it can be heard from far away and the majority of horses these days have been exposed to and accepted commonly occurring mechanical noises from their birth. There are many situations of horses unperturbed by trains or motor traffic, even for the first time, in fields or on bridleways alongside a railway or motorway..."

⁸³ Proof, Steel, [OBJ-60 W.1], para 9.

itself correctly recognises – consistently with Mr Lane’s evidence (not Mr Steel’s SoC) – the in principle acceptability of train noise impacts on horses. In terms, this policy endorses the generality of horse exposure to train noise; and the graduating continuity of that noise genre, on horses. Indeed, the guidance goes so far as to unequivocally state: “There are many situations of horses unperturbed by trains or motor traffic, even for the first time...on bridleways alongside a railway or motorway”. This is explicit acceptance of the principle, by BHS. The complete misunderstanding of this in the BHS SOC, echoes the complete absence of any analysis;

- g) in that the above guidance assimilates, for the purpose of gauging noise impacts on a horse, the on-road experience in relation to moving vehicles, it is comprehensible why the experience of a motor vehicle passing and a train passing, is not differentiated;
- h) similarly, there is example, dedicated BHS guidance which does purposely differentiate the effect of train noise on horses, from objectionable noise sources. The guidance *“Shooting & Equestrian Routes”* reinforces distinguishes sudden noise from graduating noise (e.g. *“If shooting is occurring across or near a route used by horses and it is not being stopped to allow horses to pass, then contact the highway authority. The shoot needs to be made aware that their actions are unlawful; shoots must take account of the right of way and avoid shooting in its vicinity, and be able to halt the shoot while horses pass.”*);
- i) in regard to any site-specific assessment to be undertaken, the BHS guidance neither identifies nor elevates any one suggested factor⁸⁴ set out in the BHS SoC, as actually or being capable of, militating against the NB. WS neither claims that the contributors to the SoC ever actually engaged with any of the valid distinctions drawn by this guidance, nor claims any analysis undertaken in respect of the NB that would be capable of eliciting a distinction in approach, from BHS’ own

⁸⁴ Proof, Steel, [OBJ-60 W.1], para 8.

guidance. There has been no such analysis, or assessment, as such. Rather the ‘judgment’ (with all its incompleteness, and omissions) is analytically bare and immediately unconvincing;

- j) Mr Steel recognised and endorsed the principle of ‘familiarisation’ of horses, with train noise. In its application, whilst unable to develop any appreciation, he does not challenge any part of CL’s discussion of this issue;
- k) Mr Steel was unable to report any recorded incident of a bolting horse, or attendant injury, in connection with the use of a bridleway adjacent to a railway, nationally. This fact is also not reflected upon anywhere in his SoC;
- l) when describing NR’s review of analogous bridleways (included as Appendix 4 to NR’s Statement of Case [SOC-NR-1]) as “deeply flawed and superficial analysis”⁸⁵, in fact and of the bridleways known to him, he accepted that approximately eight, were at least prima facie analogous (but which are still unreported upon and unconsidered by him, or in the SoC) and that, save for two, none had been physically attended and inspected. Similarly, the conspicuously brief interventions by BHS (Carr) in attempt to distinguish the NB from others, on the basis that some routes showed intermittent hedging was, respectfully, a good signpost of the obvious artificiality of BHS’ criticism – that is, if it is their criticism. That is, in fact, nothing from the BHS to say it is. Certainly, nothing of real substance has been advanced in support of the challenge made to the analogous bridleways review. As Mr Lane confirms, various analogous bridleways are good evidence that these can be ridden safely, albeit adjacent to high speed lines. The reason(s) for BHS dismissing other argued analogous bridleways remains nowhere explained. There is also no record of a single concern reported to BHS in respect of any one of these bridleways, still less any cause for safety inspection by on behalf of the BHS. There is no suggestion that any highway authority, whether on approach by the BHS or otherwise, is looking to stop-up or divert any such bridleway;

⁸⁵ Proof, Steel, [OBJ-60 W.1], para 10.

- m) the width of the NB is adequate, and will allow for adequate manoeuvrability by the rider, even around and in coincidence with a pedestrian or cyclist, as may be necessary;
- n) there is no objection to the proposed, bridleway surface consisting of a 20mm surface layer, 3mm limestone dust and 150mm compacted sub-base layer (of which 63mm will be down aggregate or road planings). Ultimately, the Order preserves OCC's required agreement on surfacing⁸⁶. The clear majority of horses conceivably connecting to the NB (just as would have been so, in respect of the EB) by road, further reinforces the adequacy of this surface. A valid comparison between sections of the EB, showing stone surfacing, with that of the NB, are materially indistinguishable. In that riding along these sections of the EB have not been the cause of any notable level of rider discomfort or equine injury, provides a further indicator – if needed (which it is not⁸⁷) – that the proposed NB surfacing is adequate;
- o) there is no expertise or any analysis presented in support of the proposition that a moving train “at, or close head level” may be “more threatening” or present a “higher risk”⁸⁸;
- p) given that post and wire fencing on both sides of the bridleway will be c.1.2m (4') high, stock-proofed, and sufficiently substantial to contain a horse as well as keep it off the operational railway; notwithstanding horse accidents with fencing will sometimes occur⁸⁹, there is inherently nothing about this fencing arrangement that will promote, significantly or at all, a horse to run at it, or attempt to jump, or risk greater horse injury in any probable circumstances. Consistently, BHS does

⁸⁶ Dr Hales agreed that a horse may walk and trot along this type of surface without appreciable risk of injury.

⁸⁷ Discussion of whether grass may or may not grow, from the verge, and in relation to what soil conditions, for horses to pass, is irrelevant: Dr Hales (XX: 25.6.24).

⁸⁸ BHS contend that the evidence of Jin Langstone presents the highest point of their assessment of this issue. This presents no assessment, orally confirmed by Mrs Langstone.

⁸⁹ In this context, examples of horse injury in connection with fences generally, is not probative of any greater (or unacceptable) degree of risk of horse injury in connection with fenced bridleway use, specifically.

not mandate (or even strongly prefer) a particular fencing arrangement, including on the field side of the NB. No fencing on the field-side, or replacement with boundary post markers with no fence, would mean an increased risk of interaction between stock and rider. It is recognised that if no fencing were provided on the field side, that this would allow a rider to move further away from a passing train, as appropriate;

- q) BHS neither mandates (nor heavily prefers, in any specific circumstances) bridleway fencing of a particular form, or material. No site-assessment or analysis is apparent from the SoC to detract from the proposal for post and wire fencing (at 1.2m height) on both sides;
- r) Mr Steel accepts that there is nothing objectionable, or materially so, from installing fencing, along both sides of the bridleway, even if this created a sense of 'enclosure' for the user.

125. In that Mr Steel suggested an 'in-combination' of "wide range of factors"⁹⁰ is supportive of the SoC view, in fact, this is shown not to be so. In addressing the 'variables' considered by Mr Steel as material, he was unable to identify (or evidence) any one that would prove transformative. Consistently also with Mr Lane's evidence, BHS accepts that an inexperienced rider or unfamiliarised ride should not, and would not reasonably be expected to ride along the NB (that is, even if the inexperienced rider could have reached the NB by travelling on-road – just as the EB could not have been reached). An experienced rider should be able to form their own view of the NB, both in advance, and contemporaneously, in real time.

126. Upon consideration of all Mr Steel's (refined) factors, ultimately, his concern distils to a potential – that is, a wholly unassessed and unanalysed hypothetical event – for a horse to reach a state of being frightened, and bolting along the NB within an enclosed environment.

⁹⁰ Proof, Steel, paras 7-12 (updated factors).

127. Further to the above, the following contextualises this residual concern:

- a) in the absence of any (still less any convincing) site-specific assessment or analysis, or expertise that shows the NB to be an exception to his own proposition – being one firmly endorsed by BHS guidance, this concern is impossible to reconcile with Mr Steel’s (correct) acceptance that (experienced) riders – of familiarised horses – should be able to make an informed decision as to whether to use a bridleway. The NB is no different. The BHS does not attempt to make or explain any contrary claim;
- b) insofar as it cannot be guaranteed that a familiarised horse, ridden by an experienced rider, would not – in any circumstances – become frightened and bolt within a section of the NB, the highest anecdotal evidence is that such occasions are very rare. The evidence is also that bolting on a bridleway, does sometimes happen, if inexplicably – if, very rarely. Inevitably therefore, such a risk along the NB is incapable of being displaced absolutely, but nonetheless, is very minor and is also materially indistinguishable from an experience from many other sections of bridleway;
- c) further, as to (c), there is nothing to suggest that this event, is made any less rare (or objectionably so) by any site-specific characteristic of the NB – once the in principle acceptability in safety terms of a bridleway adjacent to a railway line, is understood, such that the factor of bridleway length, is not distorting;
- d) the coincidence of pedestrians and cyclists, with one or more equestrians on the NB, of itself, does not raise any increase in risk over such coincidence of use of the EB, historically. Not one reported incident has been evidenced, in relation to this coincidence giving rise to incident on the EB;
- e) even if a ‘bolting’ event were to occur along the section of the NB, it would not mean that the NB is unsafe or objectionably so. A contrary view would fail to appreciate the reality that such an event cannot be eradicated absolutely, and

appreciate also that the very nature of a bridleway justifiably permits equestrians use alongside and in close conjunction with pedestrians and cyclists. This must be correct: the well-documented fact of road traffic accidents involving horses, and horse and rider deaths and injury on the roads, does not automatically render use of the roads for training as well as for linking between bridleways, unsafe or unacceptably unsafe;

- f) the EB, NB and locality present choice – for all users. If the equestrian were to choose not to use the NB, an adequate local equestrian network (not confined to licensed access) is available. A pedestrian or cyclist, may use the EB over the NB. Scenarios in which there is no alternative choice are immediately distinguishable.

BHS: Other: ‘Carr matters’

128. In that the BHS⁹¹ initially raised matters in respect of the Order, concerning: (i) future maintenance of the NB for cyclist use; (ii) s.34 of the Road Traffic Act 1984, and criminality by vehicle use of the redesignated highway through the exercise of occupation rights; and (iii) the question of a ‘permissive path agreement’, these matters have been answered by INQ-18. NR has since addressed BHS’ further note, dated 28.6.24.

129. The EB – formerly a Sustrans National Cycle Route, but which has since been downgraded (the signage showing ‘NCN51’ is no longer applicable) – does not attract a requirement for maintenance commensurate with that expected for a Sustrans NCN.

130. Outwith the BHS representations to date, the representative for BHS raised the following questions⁹² - answered by NR’s INQ-08 (Note on Road Traffic Act 1984 and Permissive Path Agreement):

⁹¹ Outside of the BHS written representations; by Mr. Carr, orally.

⁹² Seemingly on instructions of BHS, but again, no such points have ever been raised by BHS in their written representations, and separately, it is very difficult to fathom how these points serve BHS’s interests or presented concern.

- a) Q1: who is responsible for the maintenance of the NB in relation to cyclist use?
- b) Q2: in so that the footpath between points B1-B2 [APP07-1] is proposed for redesignation as bridleway from its current FP status, yet vehicular access to properties is proposed to be retained, would a criminal offence arguably arise under s.34 RTA 1988?
- c) Q3: why is there no permissive path agreement?

131. As to (a) Q1: Art 9(1) of the draft Order [APP01-2] provides for maintenance of the NB by NR for 12 months from its completion, and after this, by OCC (as HA), as a highway maintainable at the public. This is a perfectly standard arrangement.

132. Pursuant to s.30(1) CA 1968, a (deferential) right of the cyclist will extend to the NB. Section 30(3) provides that this right (and any other rights) conferred by s.30 shall not affect the obligations of the highway authority, or of any other person, as respects the maintenance of the bridleway; and that obligation to do anything to facilitate cyclist use of the bridleway, arises.

133. The NB will not be a cycle track, within the meaning of s.329(1) HA or the CTA 1984. The NB will not be a Sustrans route (just as the case in respect of the EB) . As such, the NB will be maintained by OCC as a bridleway in the usual way and to the usual extent that OCC maintains its bridleways across the county. No additional maintenance requirement in respect of cyclists, pursuant to s.30(1) of the 1968 Act, arises. There is no 'gap' in responsibility for maintenance.

134. As to (b) Q2: The public right of way footpath between points B1 and B2 [APP07-1] will be redesignated as a bridleway under the provisions of Art. 6 of the draft Order [APP01-2]. Paragraphs (1) and (3) of Art.19 to [APP01-1] will not apply to the section of land between points B1 and B2, given that land is not subject to powers of compulsory

acquisition, and is not to subject to the creation of a restrictive covenant or easement. Any private rights of way over that land will therefore not be extinguished.

135. Although the private rights are suspended during the period of temporary possession under Art.19(4), this will be before the creation of the NB under Art.9.
136. Accordingly, the draft Order will be entirely inconsequential regarding the constitution – or not - of an offence under s.34 RTA, regarding the land between B1-B2 – for, not least, it was already a footpath.
137. Persons driving along it without the benefit of lawful authority or not falling within the exclusion in s.34(2A) would potentially (potentially, only) have been committing an offence and that will continue when it becomes a bridleway. Those who had lawful authority or were within the subsection (2A) exclusion previously will continue to have such authority or be within the exclusion – as to mean that no offence is committed. s.34 RTA is inconsequential for the purposes of the Order – and vice versa.
138. It is not for this Inquiry to proceed any further and consider whether an offence would ever be constituted. That hypothetical exercise is irrelevant, and outwith matters relevant.
139. As to (c) Q3: The permissive access will run over the FB, to be maintained by NR (and station operator, as appropriate) as an integral part of the railway station. There is no reason to suppose that OCC should pay for granting access, or for future maintenance. NR holds third party and public liability insurances. So, there is no reason for – nor any likelihood of NR and OCC entering into a permissive path agreement, in these circumstances. It would be inappropriate and unnecessary. For information, in the usual way, NR will observe the creation of the permissive path through the placement of signage in and around the station, and at the end of the EB (which adequately references the PP, together with any conditions on access; and which confirms no intention to create a public right of way or dedicate a highway). If appropriate, NR may choose to deposit a statement under s.31(6) HA 1980 confirming non-dedication.

140. A subsequent reply of Mr. Carr received on 27.6.24 (**'Carr Note'**) fails properly to grapple with INQ-18 and the answers given to the questions actually posed, and pivots. In outline, that reply⁹³ continues to import matters of irrelevance to consideration of the Scheme; imports errors, including an erroneous classification of a non-Sustrans route; fails to understand the careful maintenance provision properly made under the Order, and both disregards and adopts a wholly unrealistic approach to OCC's own declared position. In particular, as to the Carr Note (adopting paragraph and "Issue" numbering):

"Issue 1: Maintenance of the New Bridleway"

- a) OCC, as HA, is supportive of the creation of the NB and has sought retention of the EB. OCC's correspondence is in evidence. Of course, as HA, OCC must be taken to be aware of the additional maintenance obligations, entirely consonant with a quantitative increase to the public bridleway network. Any contrary suggestion is contrary to the evidence and reality (paras 3);
- b) In correction of para 4, there is no (or no meaningful) distinction between a 'Sustrans route' and a 'National Cycle Network route' – still less any distinction capable of being at all material for present purposes. The NCN is managed by Sustrans. The Proof of Ms. Bullock has confirmed that the EB does not form part of NCN51. Whilst the section may be informally promoted by Sustrans for use by experienced users, and is thought once to have formed part of NCN51, this is no longer so. The fact has long since been confirmed in evidence (that is, whether or not, aged signage remains installed). The Carr Note also provides no evidence whatsoever for suggesting "it may be expected to be subject to higher levels of use by cyclists" today (on the erroneous comparison presented). Contrarily, the latest NR census showed a daily average of 7 cyclists (para 4);

⁹³ It is again highly questionable whether Mr. Carr's reply actually serves the interests of the BHS, which is hard to understand, given their content is directed to cycling provision, and associated maintenance provision made in the Order.

- c) All bridleways may properly be cycled on. There is no separate or additional maintenance obligation that arises in respect of the recreation of cycling along a bridleway. So, there is nothing to suggest that the adequate maintenance of a bridleway will not of itself, mean achieving a standard suitable for cyclists. Unsurprisingly, the Carr Note makes no point regarding relative specifications of maintenance. Incidentally also, of s.30(3) of the Countryside Act 1968, a non-obligation in respect of maintenance and bridleways, should not be taken to mean – as the Carr Note implies – that a power (or duty) to maintain, consistently with s.30(3) does not exist. For, not least, albeit s.30(3) does not create an obligation, nonetheless, ‘bridleways remain highways maintainable at public expense’ for the purposes of s.36 HA 1980 (para 6);
- d) Further to (a) above, no additional “public purse” maintenance liability arises. OCC is of course aware of, and has accepted, the liability arising. Indeed, required design specifications have been provided by OCC. There is also no (residual) liability which “partially remains unaccounted for”. This misconceived assertion seems to stem from the misunderstanding that a discrete and elevated specification of maintenance arises in connection with cyclist use of a bridleway, and in this instance, when it does not (para 7);

“Issue 2: Road Traffic Offence”

- e) The presence of the existing footpath is (highly) material to the basic point that the Order will in no way affect the constitution (or not) of an offence under the RTA 1984. Separately, a lawful authority (if construed as a form of permission to do) is not required to be expressed in writing, in any given case. So, even if it was appropriate for lawful authority to be given, at an appropriate point in time (which is a consideration wholly irrelevant to the Order) it would not need to be in a written format, from NR – or be incorporated in the Order. Separately, and for example (only), the landowner claiming lawful authority may assert their private rights or claim prescriptive rights, which similarly would not depend whatsoever on a written lawful authority being given. Therefore, the point is unfounded (para

12). However, albeit NR submits that this is wholly unnecessary, NR is content to propose a modification to the draft/Order by incorporation of a new Art. 6(8), as follows: "The provisions of this Article 6 and the redesignation of the highway referred to in paragraph (1) will not affect any private rights of vehicular access to the land over which the highway runs or to adjoining land that are lawfully enjoyed at the date on which this Order comes into force.";

- f) The Rights of Way Law Review Article 3.3, at pp. 1-6 *"Greater Rights over Minor Highways"* and invitation for the draft/Order to be treated as "analogous to a Public Path Creation Order made pursuant to Section 26 of the Highways Act 1980" is non-illustrative; not analogous, and irrelevant, respectively (paras 13; 14);

"Issue 3: Permissive Path Agreement"

- g) Regarding the Carr Note suggestion of "nothing within the NR case paperwork which sets out how NR will be compelled to actually provide the permissive path in the first place", this conflates two matters: (i) whether a (qualified) 'compulsion' to provide, is appropriate or necessary (the answer to which is firmly 'no'); and (ii) and if appropriate or necessary (which it is not), whether this must properly adopt a written form – and now (para 18) (the answer to which is firmly 'no'). It is wholly unsurprising, for reasons already explained to Mr. Carr (BHS), why there is no 'Permissive Path Agreement'. To add, with regard to all other instances of permissive use elsewhere on the network, NR is unaware of any one path being the arrangement which the Carr Note invites (paras 18; 19);
- h) Of *"BHS submit that there should be some mechanism by which NR are compelled to provide it in the first instance. Such a mechanism need not prejudice NR's ability to withdraw the permission in the future, but it should again provide the means (inc notice periods etc) for permanent withdrawal of the permission"*, it is plain that this hypothetical "mechanism" would necessitate a considerable level of prescription, which only serves to explain why such a mechanism is not used, and

would only prove wrongly (if not, also unlawfully) constraining of NR and/or of affected landowners, and/or of users of the permissive path. This could also conceivably compromise the operation of the railway;

- i) Moreover, in this context, it is noteworthy that it is not NR's submission that the permissive path does constitute a material consideration (still less, one of significant weight) to the Inspector's consideration of the Scheme, or that of the SoS. The Inspector and SoS can, of course, properly note that the permissive path will be provided, and also the understandable and lawful circumstances preventing dedication, and further the absence of any need (or indeed, preference) for an express agreement to effect the permissive path. However, it remains, fundamentally, that the permissive path does not form part of the Order. Consistently also, there can be no express compulsion on NR to provide or maintain the permissive path – and, importantly, there is no need whatsoever for such. So, this (unremarkable) fact should not be treated as undermining of the preservation by NR of the permissive path, true to their confirmation (para 21).

Byways and Bridleways Trust

141. The actual membership of Byways and Bridleways Trust ('**BBT**'), supportive of the SoC and positively objecting, is unknown⁹⁴. The suggested merit of the “link” (between Nethercott-Tackley and Kirklington) and spoken to in the Statement of Case, was not spoken to by BBT, in evidence⁹⁵. This “link” remains, whatever its significance, for pedestrians and cyclists, and is significantly enhanced in safety terms. The body of the BBT SoC⁹⁶ is addressed elsewhere.

Bicester and Warren Pony Club

⁹⁴ Save for the acting BBT Secretary (Mrs Machin), no known member of the BBT ever attended the Inquiry. Mrs. Machin did not purport to speak on behalf of the BBT. Mrs Machin also did not assert any expertise on any equestrian matter.

⁹⁵ No witness spoke on behalf of BBT.

⁹⁶ SoC (undated; unsigned).

142. The body of the BWPC SoC⁹⁷ is largely addressed elsewhere. The size of BWPC membership, and any scale of actual support for the SoC produced, is not in evidence. Of the “consultation process” complaints: (i) the argued ‘flaws’ apparent from the “consultation process” are unfounded: in that the local “riding community”⁹⁸ was plainly included within wider engagement, no discrete or elevated attention was merited, as if to singularly target this specific ‘group’; (ii) the schematic diagram had been separately supplemented by various, accurate, sources of literature, including for the purposes of in-person events. Not one person has been identified as actually having been misled, which rather speaks to that sheer impossibility. As with the BHS, the ‘complaint’ made of the analogous bridleways document, is entirely unsupported by any considered explanation, or freestanding analysis with regard to any one bridleway example.

Andrew Peake/Tackley Estate

143. By reference to TE’s updated position, and the (orally) revised⁹⁹ ‘grounds of objection’, five grounds are addressed. ‘First ground’: this is predicated on the critical error that the very preferred, ‘alternative’ route(s) advocated by TE, namely Route D (and perhaps additionally, Route E), will certainly not be made available, at any time, and so cannot present any actual alternative to the NB. This is by reason of an associated pre-requisite ‘conditionality’ that is mandated by TE to be satisfied – which cannot, and will not be. This ‘conditionality’ comprises, so far as may be relevant to the Inspector’s and SoS’s consideration; (i) undertaking comprehensive engineering and drainage works to Whitehill underpass and underground sewer, which would be entirely removed from merely maintaining adequate clearance height for vehicles¹⁰⁰ - outwith the Order; in excess of NR’s authority and responsibilities, and amounting merely to an obvious gratuity which – even if capable, one day, of being licensed by (third party) Thames

⁹⁷ SOC-OBJ-70

⁹⁸ A “riding community” (directly concerned with the EB, TLC and NB) not quantified in evidence. No more than 5 local equestrians spoke during Inquiry. The appearance is that not many more than these attended.

⁹⁹ Orally revised by the representative for TE, Mr Hywel Morse of XX, on 27.6.28.

¹⁰⁰ Maintenance of adequate clearance height has been confirmed by NR.

Water – has not even been scoped in any detail, today, by TE¹⁰¹; and (ii) the permanent stopping up, to all users, of the EB – which has been confirmed by OCC (as HA) as being unacceptable; a non-negotiable position, which has justifiably informed NR’s approach to the EB under the Proposal. TE’s claim of alternative routes, is evidenced to be purely notional. In the absence of ‘alternative’ routes (i.e. any), the NB is singularly, the feasible route.

144. Second ground: “effects on the Old Whitehill underpass” are addressed above.
145. Third ground: “remaining cul-de-sac”: This concerns pedestrians and cyclists of the EB. Albeit NR cannot properly (or legally) statutorily dedicate this route, NR does not now suggest, that upon any future date, it will need to effect a withdrawal (or even suspend, over any significant period). In any event, should the permissive access over the FB be withdrawn, it would be perfectly open to TE to invite the local highway authority to close the EB – which may then do so if it is, truly the case that the EB is redundant at that point in time. However, given what was heard at inquiry regarding the amenity and historic value of the EB in itself¹⁰², it should not be assumed that it would become redundant.
146. Fourth ground: This is now refined to two limbs of objection, only: (i) potential liability of TE for fencing maintenance, and (ii) potential liability for TE under the tort of ‘occupiers’ liability’ – which is left wholly unparticularised¹⁰³. The origins of both limbs, is TE’s failed appreciation that NR is (justifiably) permanently acquiring only such land as necessary for the construction of the NB, and that following OCC’s confirmation that it does not require ownership of the NB land, it should not and will not be permanently acquired. TE confirms that nothing else arises in connection with this “Heads of Terms” ground.

¹⁰¹ To date, TE has not even instructed for an engineering survey of Whitehill underpass, and requested no formal scoping or assessment of the difficulty of relocating the sewer.

¹⁰² Mr Ridout: 27.6.24.

¹⁰³ By Mr. Morse, on behalf of TE.

147. As to (i) above, it is right and efficient that responsibility for fencing passes to the adjoining landowner, so, to NR on the eastern side, and to TE on the western side, as it is those owners that require the fencing to be in place in order to protect the on-going use of their land. No controversy possibly arises. To add, from the vantage of the local highway authority, no fencing would be needed. The compensation payable to the TE in respect of the creation of the NB will of course include an element attributable to the forward maintenance cost of fencing.
148. As to (ii) above, the established principle in Gautret v Egerton [1867] (affirmed in 1994 in McGeown v Northern Ireland Housing Executive [NIHE] 24 June 1994) is that a person exercising a public right of way are not visitors (or persons acting with permission of the owner) for the purposes of the Occupiers Liability Act 1957. The landowner should not be liable for acts amounting to what has been termed ‘negligent non-feasance’ (as opposed to misfeasance). In this context, the landowner will be under no legal duty to maintain and repair the public right of way, for use. That basic truth is consistent also with the Order making clear provision for the responsibility for maintenance of the NB to pass to the local highway authority, and any liability for occurrences on the NB relating to negligent repair will follow that responsibility. Regarding trespassers under the Occupiers Liability Act 1984, liability is specifically excluded for persons who may be injured in exercising these rights.
149. Separately from the principle, however, is the reality: TE has a history of allowing/permitting members of the public to exercise rights of way over its land. No history of incidents, is evident. There is similarly no evidence or even suggestion, that any site-specific risk of injury of any magnitude, is at all likely, still less significant. There is also no suggestion that risk reduction measures, or third party liability insurance – well within reach of TE - have even been considered¹⁰⁴. Respectfully, this is a non-issue (and understandably one that was never part of TE’s SoC).

¹⁰⁴ CPR Part 36.

150. Fifth ground: Schedule 4(3) of the Order – corresponding to Plots 0003 and 0003a – adequately provides (generally) for the access that is invited by TE, including access by agricultural vehicles. TE agrees this sufficient comfort.

TE: Other: Plot 10

151. Pursuant to NR's **INQ-18** (Issues raised in respect of Plot 10) relating to Plot 10 – which is proposed for permanent acquisition: [APP07-1; APP06; INQ-04-1], NR has addressed TE's query regarding the siting of the NB (as shown on [APP07-1]) and possible consequential impacts. TE's essential stated concern is that if the location of the NB were to create a parcel of land severed from the main field, TE would be unable to utilise this area for agricultural purposes, and would be required to maintain this area, since it remains in TE's ownership. TE's related concern is for the maintenance of the hedge line located at the southern boundary of the field, as a result of the proposed location of the NB. TE's mooted resolution is for the location of the NB to be brought closer and in parallel to the field boundary, as to eradicate the relevant parcel of land, and also enable hedge line maintenance.
152. Further clarification has been provided¹⁰⁵ as to indicative proposals for access and gates to the NB, in a way that would adequately preserve separate agricultural access to TE's fields. These indicatively demonstrate (subject to the detailed design) that gate treatments can successfully be provided for the NB in order to maintain separate gated access for agricultural use.
153. This updating clarification is consistent with the following under INQ-18:
- a) Network Rail will not seek to acquire the land on which the NB will be constructed; the draft/Order will incorporate the power for the creation of the NB;

¹⁰⁵ Submission by NR to Inquiry on 2.7.24.

- b) Network Rail will make reasonable endeavours to ensure that the southern end of the NB will be constructed as close to the hedging located at the southern boundary of the field, as possible;
- c) No part of TE will be left to the south of the bridleway (so as to be situated between the NB and the existing boundary hedge, along the south of the field;
- d) NR will make reasonable endeavours to ensure the sufficient width of the NB at the southern boundary of the field, as to allow for maintenance of the boundary hedging from the northern side by agricultural mowing apparatus, or alternatively, that such apparatus can access via gates in the bridleway fencing to allow for access to maintain the hedge.

Cycling UK (OBJ/65))

154. As Mr Audley explains¹⁰⁶, the cyclists experience of the immediate locality will be materially enhanced under and in connection with the Scheme. Cycling recreation is clearly promoted.

155. First, the additional distance to be cycled in conjunction with the NB will not detract, materially or at all, from cyclists' enjoyment of this new route. This addition is negligible in the context of a total riding distance that is likely to be many kilometres. For the cyclist to dismount for the station for a total of approximately 230 / 240 metres, will present no or no substantial qualitative 'loss' or inconvenience. So, equally, it is difficult to understand how this additional distance could prove disincentivising. Of note also is that the EB route, together with the FB permissive access through the station, and alternatively, the NB, are routes of a similar length (approximately 1.3km for NB route and approximately 1.2km for the EB route).

¹⁰⁶ Proof, Audley [NR-W2-1], paras 5.15-5.25.

156. Second, the cyclist utilising the NB and FB should also allow for comparatively visually pleasant, vantage-points, and separately, a comparatively wider route than the EB. The NB also creates a link between two cycling routes of a sufficient width and surface.
157. Yet, even if disincentivising for some cyclists – which, it is not perceived would involve many – alternative local cycling routes which enable connectivity within the local area generally, incorporating the EB, would remain unaffected. It so happens also that Fig. 5 of Mr. Audley’s Proof also shows the indicative route that a cyclist would have to have taken, with a subway, being approximately 260metres, which is comparable to the additional length under the Scheme.
158. Third, separately from the NB, prior to closure of the TLC, cyclists using the EB had to cross the railway on the level and had to operate the TLC gates. This fundamentally meant their exposure to unacceptable safety risk, and also encountering an ‘impediment’ to the overall experience of fluidity through this northern stretch. The proposed permanent closure of the TLC, in conjunction with FB permissive access (with lifts) provides for connectivity through the station in absolute safety and with full accessibility. Further in connection with the EB, nothing about the cyclist’s experience along the EB that would be affected by the NB.
159. As Messrs Audley and Willson have explained, the subway proposal ultimately became unfeasible, by virtue of the very high associated costs of delivery.

Matter 6

‘(a) Whether there is a compelling case in the public interest to justify conferring on NR powers to compulsorily acquire and use land for the purposes of the Scheme’

160. It is submitted that there is very strong evidence of a compelling case in the public interest, for the (conspicuously limited) powers and rights to be granted under the proposed Order. In this instance, the public interest being served by the highly significant objectives, purposes and needs underlying the Scheme, is well-evident. The public interest, and underlying objectives, purposes and needs have been spoken to amply in evidence.

161. Importantly, the Scheme – now reduced in terms of land-take, since NR’s initial promotion of the application, by reference to delivering the NB – and NR’s considered approach to the Scheme, amply demonstrates that NR has strived to minimise the impact of the Scheme upon all objectors. Again, it is highly evident that, by the Scheme and Order, NR seeks to minimise the impact on landowners by virtue of the NB proposal, by seeking to impose rights over land rather than compulsory acquisition, by minimising the extent of the rights required to deliver the scheme and by locating the NB at the side of the land affected, adjoining NR’s existing land in the most efficient layout.
162. As above, Mr. Willson has separately confirmed that NR has exercised best endeavours to minimise the temporary land take for construction (both in terms of footprint and duration) and to minimise the effect on other users, particularly TE; for temporary access during construction, and to accommodate shared use of temporary access routing, with TE. The exact durations of access and the full range of plant/vehicles to use the accesses, is, in the usual way, for later determination.
163. As above also, is the fact that ‘alternative’ of Route D – even if deliverable, which it is not – would entail a comparatively greater impact on the landowner, arising from the splitting of the field (in farming and access terms). Further, was identified that Route D would also increase maintenance obligations on the landowner due to there being two sets of fences, not one. Route E give rise to the similar, albeit comparatively less, considerations – as contrasted with the NB. These are also live considerations, when assessing the merit of NR’s approach in respect of the NB for Matter 6 purposes.
164. In context also, Mr Billingsley confirms that the draft Order is made in accordance with all relevant guidance, including a requirement to seek agreement with land and property interest owners. It is affirmed that the land and rights over land, applied for, are necessary to implement the Scheme.

165. Mr. Billingsley has further considered the land position regarding objectors who have rights only, recorded in the Book of Reference¹⁰⁷, within the wider titles of land within the Order. These do not concern land agency matters, but relate to other issues. A summary of communications has been given in respect of the following rights holders: Guy Roberts (OBJ 08); Helen Spencer (OBJ 49); Gillian Withers (OBJ 66); Jane Collier (OBJ 56); Kay Chacksfield (OBJ 61)¹⁰⁸.
166. Further summary and response has been to objections, so far as they remain outstanding and concern: (a) those with freehold interests in the Order Land; or (b) those with rights in or over the Order Land. Two outstanding objections (OBJ/62 and OBJ/70) are made against the proposed temporary use of and acquisition of permanent rights in the Order Land, both of which are objections submitted by statutory objectors with freehold interests (OBJ/70 Andrew Charles Peake and OBJ/62 Anthony Crocker). Objections have also been raised by individuals who hold rights over the Order Land, but the content of these objections do not relate to any of the land agency aspects of the Scheme. These have been summarised as: OBJ/08 Guy Roberts [Rights of access]; OBJ/49 Helen Spencer [Rights under a transfer]; OBJ/56 Jane Collier [Rights under a transfer]; OBJ/61 Kay Chacksfield [Rights of access]; OBJ/66 Gillian Withers [Rights under a transfer].
167. The correspondences with OBJ/62 Anthony Crocker [freehold owner] are summarised at paras 9.5-9.6. The correspondences with OBJ/70 Andrew Charles Peake [freehold owner] are summarised at paras 9.7-9.11.

Engineering, etc. constraints of options, relative to NB option: Other

168. In context also, Mr. Willson has confirmed that the powers provided for in the Order are necessary and proportionate for the construction of the associated elements of the Scheme. He resounds that the powers sought for temporary worksites, construction compounds and access do not exceed what is necessary for the construction, and that

¹⁰⁷ [APP06].

¹⁰⁸ Proof, Billingsley, paras 8.24-8.28.

the Order will enable works to take place in a timely and cost-effective manner. In context, he further cites what amount to notably significant engineering difficulties presented by options alternatives to the Scheme, which render them unviable for various reasons, combining very significant engineering constraints and associated costs, safety, compliance and deliverability.

169. In so concluding, Mr Willson has completely appraised the engineering elements of the Scheme¹⁰⁹, through to the proposal for fencing along the NB¹¹⁰. He confirms the (proportionate) need for construction compounds, worksites and access¹¹¹, in conjunction with the NB, which are proportionately scaled (with no greater land being occupied for this purposes than necessary) and well-sited. He explains that the NB route would be temporarily fenced from the rest of the field, to provide for only a slightly larger working area than the final path (temporary acquisition plot 007, 008 and also entrance area plot 012) and then the formal bridleway will be constructed (within land parcel 005 plus 006), to include the permanent fencing, bridleway route construction, gates, signage etc. During this construction period a small area of vegetation to the south of the bridleway (plot 010) would be separated from the field by the construction compound. He confirms that NB construction is expected to have minimal impact on TE's normal business, with only occasional construction vehicles using Old Whitehill occupation road and bridleway to access the compound/worksite. Any such impact would be managed by close liaison with TE. Construction vehicle use would be closely monitored. At the very north end temporary acquisition plot 004 would be used intermittently to aid construction at plot 005.

170. For the FB construction a much larger compound is proposed at the north end of the EB, near the 'closed' level crossing on the east side of the railway (temporary acquisition plot 001), together with a storage compound for materials/lay down area and giving access to the north end of the station for the FB site location. Construction of the footbridge will be partly achieved from this compound and by importing specialist road-

¹⁰⁹ Willson, Proof, section 4.

¹¹⁰ Willson, Proof, para 5.6-5.7.

¹¹¹ Willson, Proof, para 5.9.

rail plant and materials by rail. Access to the FB construction area would be via the EB (temporary acquisition plots 003, 003a, 003b and 011), also having minimal impact on TE normal business. TE will continue to access fields adjacent to the EB and any impact would be supervised and managed, in liaison with TE.

171. Mr. Willson has confirmed that NR has exercised best endeavours to minimise the temporary land-take for construction (both in terms of footprint and duration) and to minimise the effect on other users, particularly TE. This includes for temporary access during construction, and to accommodate shared use of temporary access routing, with TE. The exact durations of access and the full range of plant/vehicles to use the accesses may inevitably only be determined upon construction contracts being awarded, but these will comply with the Order and licensed arrangements.

‘(b) Whether the purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected (having regard to the HRA 1998)’

172. Pursuant to the exercise of the powers under the Order, any arising interference with human rights (the evidence demonstrates A1P1 ECHR, only) is considered to be lawful, and proportionate to the clear public benefit that will be derived from the Scheme, as well as in the wider public interest. As to the more exact scoping of any such interference, in this instance:

- a) it will be observed that A1P1 is a qualified right, and provides for the exception of the public interest, subject to the conditions provided for by law.
- b) the compulsory acquisition of rights and use of land for the railway purposes specified in the proposed Order is authorised by, and subject to the 1992 Act. Subject to procedural safeguards, it can plainly serve the public interest that individuals be ‘deprived of’ rights in their land, for proper, appropriate and justified railway purposes;

- c) procedural safeguards provided for by the 1992 Act and the Transport and Works (Inquiries Procedure) Rules 2004, enable objections to be made, and for consideration by an independent inspector, as here;
- d) all eligible and appropriate compensation will be payable, pursuant to the Compensation Code, as the Order provides for. Where any dispute as to the specific amount of compensation arises, referral may be made to the Upper Tribunal (Lands Chamber), in the usual way;
- e) as above, in this instance, the compulsory use of land, and acquisition of rights in land, is shown to be necessary to facilitate full delivery of the Scheme.

173. Any interference with Convention rights is therefore considered to be justified. It is considered – uniformly across NR’s evidence (and which, NR notes, has not been the subject of any considered disagreement) – that the railway and Scheme-specific purposes engaged, are more than sufficient to justify an interference with the human rights of those with affected interests in land. The Order, including a requirement for compensation, strikes a scrupulously fair and proportionate balance between the private interest of the landowners and the public interest in securing and serving the objectives, needs and benefits, both underlying and to be delivered by, the Scheme. The eligibility for compensation ensures all appropriate recompense to offset any corresponding impacts. Separately, NR is unaware of any potential impacts on rights to private and family life, home and correspondence protected under article 8 of the ECHR being affected by this scheme, of which there is no evidence – or indeed suggestion made in the objections.

‘(c) Whether there are likely to be any impediments to NR exercising the powers contained within the Order, including the availability of funding’

174. There will be no likely (or indeed, any foreseeable) impediments to NR exercising the powers contained within the Order. This includes with regard to implementation and funding; planning, consenting and licensing matters¹¹².

175. Mrs. Holbrook has confirmed adequate and approved funding for the Scheme, by reference to the Funding Statement¹¹³ for the implementation of the Order, and that this falls within the Control Period 7 (CP7 - 2024- 2029) business plan. This includes the costs of acquiring land. Mrs. Holbrook has also provided¹¹⁴ the split out of costs against three main scope items, and demonstrates that full funding for the Scheme is allocated in NR's business plan.

176. Mrs Bullock has also separately confirmed that there are no planning impediments to the delivery of the Scheme.

(d) Whether all the land and rights over land which NR has applied for is necessary to implement the scheme.

177. It has been explained¹¹⁵ why the land over which the public highway is to be created or temporary use, are necessary (e.g. for construction or construction access purposes). The extensive optioneering for the Scheme demonstrates that full regard has been had to the principle of land efficiency and to using as little additional land as possible. Further, that full regard has been had to avoiding or minimising potentially sterilising or other adverse effects on the usability of land.

178. The powers sought in the Order are the minimum necessary to provide for the temporary worksites, compounds and access routes for the construction of the NB and

¹¹² APP08

¹¹³ APP.04

¹¹⁴ Proof, Holbrook [NR-W1-1]: Table at paragraph 13.3

¹¹⁵ Proof, Willson [NR-W5-1] – subject to updating at Inquiry. Proof, Billingsley [NR-W3- 1] – subject to updating at Inquiry.

the FB. An immediate and defined use for all land affected has been identified and justified.

Matter 7: Other Matters

179. Further to the above, and in consideration of all evidence relied upon by NR, it is not considered that there are any other matters which fall within Matter 7.

Conclusion

180. Plainly, the Scheme is of compelling importance in strategic and detailed terms, and in serving the public interest, for the very many reasons given, and evidenced – in respect of each of its robustly considered components. The matters about which the SoS wishes to be informed in consideration of the application, have been comprehensively answered. Objection to the Order has been well-received, carefully appraised and satisfactorily addressed. Related procedural and substantive matters have all been thoroughly addressed. In that the Order will cause some, minor and transient interference to the property interests of certain parties, the history of this matter and updated evidence, amply demonstrates that NR has pursued every reasonable effort in order to accommodate all such interests, and further, that this interference is inconsequential upon proper application of the tests advised.

181. It is on the above basis, that NR respectfully invites the Inspector to recommend to the Secretary of State for the Order to be granted.

JUAN LOPEZ

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3 July 2024